

***United States Court of Appeals
for the Second Circuit***



APPENDIX

77-1134

United States Court of Appeals

FOR THE SECOND CIRCUIT

Docket No. 77-1134

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

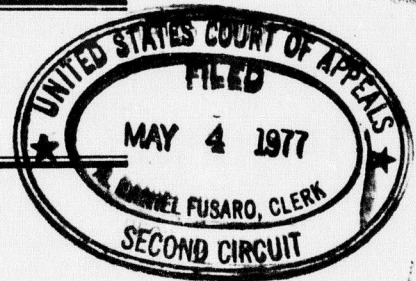
—v.—

GEORGE MOSS and AMERICAN IDENTIFICATION
PRODUCTS,
Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

APPELLANTS' JOINT APPENDIX

GRAHAM HUGHES
Attorney for Appellants
New York University School of Law
40 Washington Square South
New York, New York 10012
(212) 598-2565

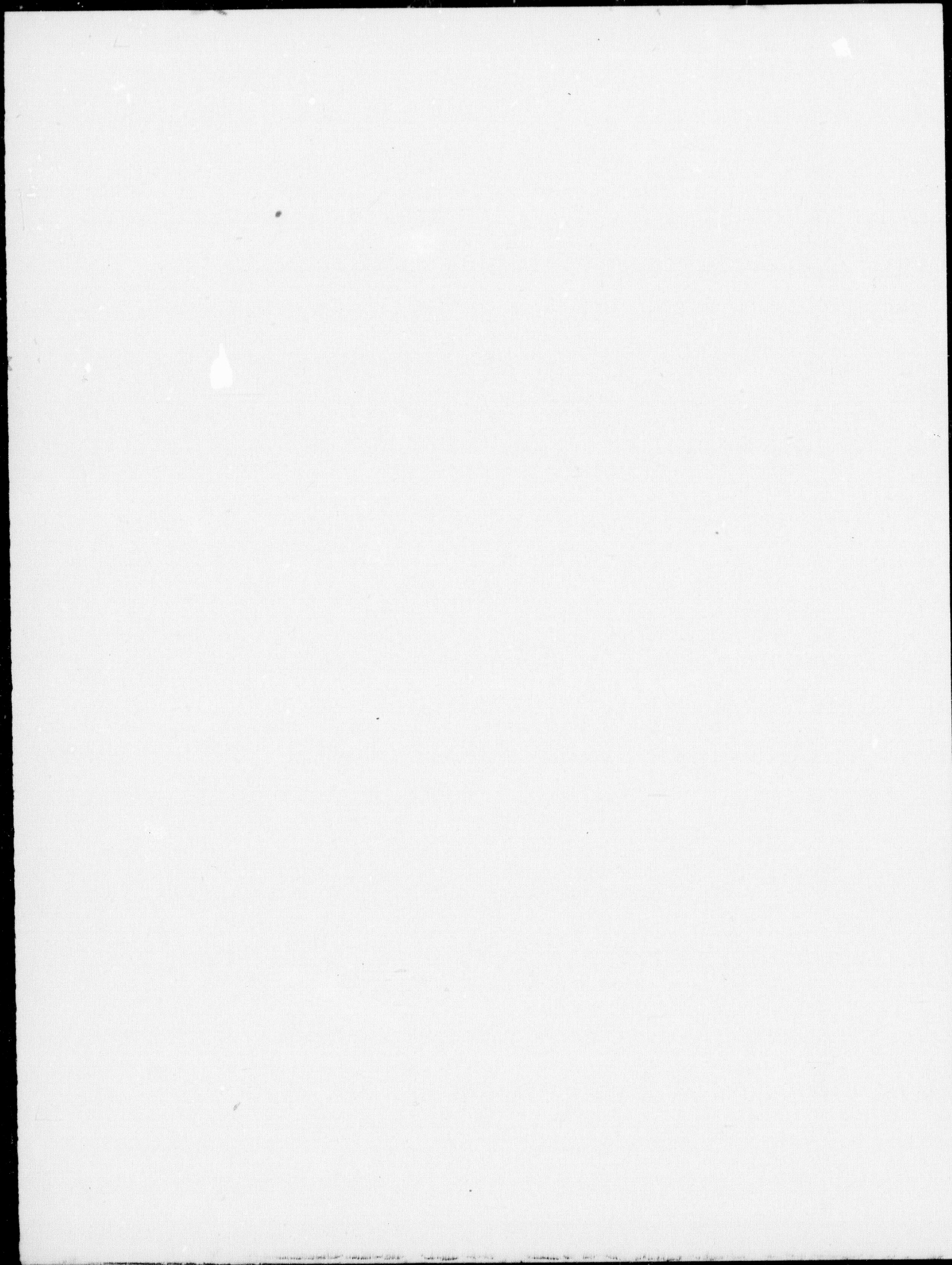


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X MOSS, GEORGE

18-152, 371 & 2

Did conspire with others to defeat the Bankruptcy Law

U.S. MAIL CASE NO. 76 369

BAIL - RELEASE

☐ AMT ☐ Fugitive
☐ Denied ☐ Set ☐ Pers. Recog
☐ PSA

\$ 000

Date

☐ Bail Not Made ☐ Collateral
☐ Status Changed (See Docket) ☐ 3rd ☐ Pity Cust ☐ Other

II KEY DATES & INTERVALS

ARREST or	INDICTMENT	ARRAIGNMENT	TRIAL	SENTENCE
U.S. Custody Reg. No.	High Risk Date	Information	Voir Dire	Disposition of Charges
Summons Served	Indict Waived	6-11-76	11/24/76	☒ Convicted ☐ On All Charges
First Appearance	In Charging District	1st Plea	12/8/76	☐ On Lesser Offense(s)
		Final Plea	12/21/76	☐ Dismissed ☐ WOP ☐ WP
				☐ On Government Motion

SEARCH WARRANT	DATE	INITIAL/NO	INITIAL APPEARANCE DATE	INITIAL/NO	OUTCOME
Issued			PRELIMINARY EXAMINATION		☐ DISMISSED
Returned			OR		☐ HELD FOR GJ OR OTHER PROCEEDING IN THIS DISTRICT
Issued			REMOVAL HEARING		☐ HELD FOR GJ OR OTHER PROCEEDING IN DISTRICT BELOW
Served					
Arrest Warrant Issued					
COMPLAINT					
OFFENSE (In Complaint)					

U.S. Attorney or Asst

Levin - Epstein

ATTORNEYS

Nancy Rosner
401 Broadway
N.Y., N.Y.
925-8844

Defence ☐ CJA ☒ Ret ☐ Waived ☐ Self ☐ None / Other ☐ PD ☐ CDP

ARNOLD RUBIN 2; AMERICAN IDENTIFICATION PRODUCTS, INC. 3

- 6-1-76 Before Platt, J - Indictment filed
- 6/11/76 Before PLATT, J.- Case called- deft and counsel present- deft waives reading of indictment- deft arraigned and enters a plea of not guilty. Bail: O.R.- motion set down for 6/25/76 at 10:00 A.M.
- 6/11/76 Notice of appearance filed
- 6-25-76 Notice of motion filed, ret. June 25, 1976 and Memorandum in support of motion for an order requiring the Govt to name any co-conspirators, etc.
- 6-25-76 Before PLATT, J - Case called. Adj'd to 7-9-76 at 11:30 AM.
- 7-9-76 Before PLATT, J - Case called. Counsel present. Deft's motion adj'd to 7-9-76 at 11:30 A.M.. Court directs that all counsel be present at that time in order to set a date for trial.
- 7-9-76 Before PLATT, J. - Case called. Defts & Counsel present. Defts motion for discovery withdrawn as most after having been advised of their rights by the Court, Defts waive rights to speedy trial and to move for dismissal on

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SHOW IN SECTION V ANY OCCURRENCE OF EXCLUDABLE DELAY PER 18 USC § 3161(h)

IV. PROCEEDINGS (continued)

PAGE TWO

V. EXCLUDABLE DELAY

DATE	DESCRIPTION	EXCLUDABLE DELAY
(a)	(b)	(c)
	grounds of lack of speedy trial. Status Report set down for 9/3/76 at 10:00 a.m. Trial set down for 11/1/76 at 10:00 a.m.	7/9/76 T
9-3-76	Before PLATT, J - case called - no appearances - set down for conference on 9-17-76	
9/17/76	Before PLATT, J. - Case called. Trial set down for 9/21/76 at 9:15 a.m.	
9-21-76	Before PLATT, J. - Case called. Deft & counsel present. Adj'd for conference to 9-24-76 at 2 P.M.	
9/22/76	Stenographers transcripts dated 6/25/76, 9/17/76 & 9/21/76 filed.	
9-24-76	Before Platt, J - case called - deft & atty present - Court directs that deft retain new retain new counsel - trial set down for Nov 1, 1976 @ 9:30 am - Certificates of Engagement issued.	
10-28-76	Stenographers transcript filed dated 9-24-76	
10-5-76	Stenographic transcript dated 7-9-76 filed.	
10/14/76	Before PLATT, J. - Case called. Trial adj'd to 11/29/76 at 9:30 a.m. Case set down for waiver of speedy trial rights on 10/22/76 at 2:00 p.m.	T
10-22-76	Before Platt, J - case called - deft & counsel present - trial set down for Nov. 29, 1976 at (9:30 am.)	T
10-28-76	Before Platt, J.- Case Called. Deft & Counsel Present, Status Report set down for 11-1-76 for substitution of atty.	
11-1-76	Before Platt, J.- Case Called. On Motion of Deft. the case is adj'd. to 11-29-76 for Trial with consent of the Govt.	11-1-76 T 11-29-76
11/3/76	Stenographers transcript dated 10/22/76 filed.	
11-24-76	Notice of Motion for an order striking, as unnecessary surplusage, the word 'Benchmark' from count 7 of the indictment, returnable December 6, 1976 at 9:30 A.M. filed	
11/29/76	Before PLATT, J. - Case called. Deft & Counsel present. Defts motion for further discovery - DENIED. Govts motion to strike as surplusage in the indictment the word "benchmark" granted on consent. Redacted indictment to be submitted. Trial adj'd to 12/6/76 at 9:30 a.m.	T
12-6-76	Before Platt, J.- Case Called. Deft. & Counsel present. Govt's. motion for exclusion of witnesses = granted. Trial ordered and begun. Jurors were selected and sworn. Govt. opens. Deft. opens. Trial continued to 12-7-76 at 10:00 A.M.	

FIVE AND FIFTY CENTS

DATE

RECEIPT NUMBER

DATE

DATE

RECEIPT NUMBER

DATE

V. EXCLUDABLE DELAY

(a) (b) (c) (d)

DATE	PROCEEDINGS (continued)	(a)	(b)	(c)	(d)
	(Document No.)				
12-7-76	Before Platt, J.- Case Called. Deft. & Counsel present. Govt's. motion that the court sustain objections to certain defenses as irrelevant as a matter of law - Decision Reserved. Trial resumed. Trial continued to 12-8-76 at 10:00 A.M.				
12-8-76	Before Platt, J.- Case Called. Deft. & Counsel present. Trial resumed. Trial continued to 12-9-76 at 10:00 A.M.				
12-9-76	Before Platt, J.- Case Called. Deft. & Counsel present. Trial resumed. Trial continued to 12-13-76 at 10:00 A.M.				
12-13-76	Before PLATT, J - case called - deft & atty present - On defts motion trial adjd to 12-14-76 at 10:00 am. Govts motion to strike as surplusage word "drill" from Indictment - decision reserved - trial adjd to 12-14-76. Jury excused by the court until 12-14-76.				
12-14-76	Before Platt, J.- Case Called. Trial resumed. Govt. rests. Deft's. motion to dismiss counts one through 14 inclusive Motion denied except for count five - Decision Reserved. Trial continued to 12-15-76 at 9:30 A.M.				
12-15-76	Before Platt, J.- Case Called. Deft. & Counsel present. Deft's. motion to dismiss count five (5) of the Indictment is granted. Deft's. motion to call witness out of order is granted on consent. Trial continued to 12-16-76 at 9:30 A.M.				
12-16-76	Before Platt, J.- Case Called. Deft. & Counsel present. Trial resumed. Trial continued to 12-20-76 at 9:30 A.M.				
12-20-76	Before PLATT, J.- Case called-Deft and counsel present- Deft Moss' motion for mistrial argued-Motion denied- Deft rests-Gov't rests-Both sides sum up-Trial cont'd to 12-21-76 at 9:30 A.M..				
12-23-76	By Platt, J.- Order of Sustenance filed.				
12/21/76	Before PLATT, J.- Case called. Deft & Counsel present. Jury retires for deliberations. Jury returns with a verdict of guilty to counts 1 through 12 and 14. Jury is discharged with the thanks of the Court. Motions of deft reserved until sentencing. Bail set at \$10,000 PRB. to be posted by 12/28/76. Sentence adjd without dated. Trial concluded.				
1-5-77	Stenographer's Transcripts dated December 6, 1976 (10:00 A.M.) December 6, 1976 (2:40 P.M.), December 7, 1976, December 8, 1976 and December 9, 1976 filed.				
1-10/77	Stenographers transcript dated 12/13/12/14/76, 12/15/76, 12/16/76, and 12/20/76 filed.				
1-19-77	Notice of motion filed and affidavit Memorandum of Law filed in support of motion for a new trial. (forwarded to Chambers)				
1-25-77	Stenographers transcript filed dated 12-21-76				
1-3-77	Memorandum of Law filed and forwarded to Chambers.				

COURT

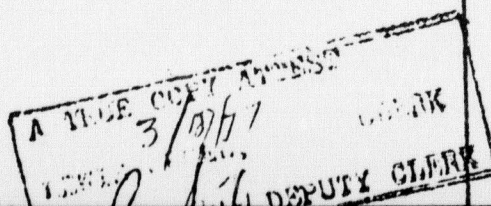
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PROCEEDINGS (continued)

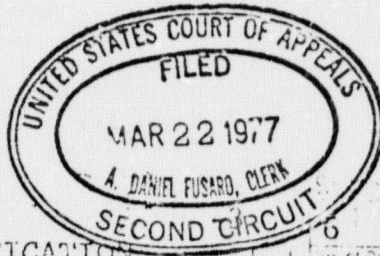
V. EXCLUDABLE DELAY

(a) (b) (c) (d)

- 77 Affidavit of Ethan Levin-Epstein filed and forwarded to Chambers.
- 77 affidavit of Daniel F. Kelleher filed and forwarded to Chambers.
- 77 Affidavit of James W. Short filed and forwarded to Chambers.
- 77 Affidavit of Gwendolyn Horn filed and forwarded to Chambers.
- 77 Affidavit of Jeffrey H. Kay filed and forwarded to Chambers.
- 77 Deft's. Reply Memorandum of Law in Support of Motion for a New Trial filed and forwarded to Chambers.
- 77 Before Platt, J - case called - deft & counsel E. Taikeff present - defts motion for new trial argued and denied - deft sentenced on counts 1 thru 4, 6 thru 12 and 14, under 18:3651 to imprisonment for 2 years on condition that he serve 6 months in a jail type institution and execution of sentence is suspended and deft is placed on probation for 1 1/2 years to commence upon his release from confinement. Such sentences to run concurrently on each count and deft to pay a fine of \$1,000 on each counts for a total fine of \$12,000. Execution of sentence stayed for 10 days pending filing of notice of appeal. If such notice be filed execution of sentence is stayed pending appeal. Bail contd - defts motion for leave to serve sentence of imprisonment on weekends - decision reserved.
- 77 Judgment and commitment and order of probation filed - certified copies to Marshal and Probation
- 77 Notice of appeal filed - docket entries and duplicate of notice mailed to the court of appeals
- 77 Notice of motion filed: affidavit of Asst. US Atty Levin-Epstein and Govts Memorandum of Law filed requiring deft Moss to deposit \$12,000 ; the total fine imposed upon him by the Court after his conviction, in the registry of this court, pending his appeal of that conviction, or in the alternative for an order pursuant to Rule 38(a)(3) requiring the deft to submit to an examination of assets and restraining him from dissipating his assets pending appeal, etc.



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APPEAL

DEMEANOR MIS
FELONY For 207 1

AMERICAN IDENTIFICATION PRODUCTS, INC.

76 369

U.S. TITLE/SECTION 18-152, 371 & 2 OFFENSES CHARGED Did conspire with others to defeat the Bankruptcy Laws ORIGINAL COUNTS 14

CLOSED

SUPERSEDING COUNTS

U.S. MAG. CASE NO. 76 369

BAIL • RELEASE

☐ AMT ☐ Fugitive
☐ Denied ☐ Set ☐ Pers. Recog
☐ PSA
\$ 000 conditions
☐ 10% Deposit
☐ Bail Not Made ☐ Collateral
☐ Status Changed (See Docket) ☐ 3rd ☐ Pity Cust ☐ Other

II. KEY DATES & INTERVALS

ARREST or U.S. Custody Began High Risk Date 6-1-76 INDICTMENT 6-1-76 ARRAIGNMENT 6/11/76 TRIAL 12/2/76

Disposition of Charges: ☒ Convicted, ☐ Acquitted, ☐ Dismissed

SENTENCE

☐ On All Charges
☐ On Lesser Offense(s)
☐ WP
☐ On Government Motion

MACISTRATE

Search Warrant: Issued, Returned, Issued, Served

Arrest Warrant: Issued, Complaint

OFFENSE (in Complaint)

DATE, INITIAL/NO, INITIAL APPEARANCE DATE, PRELIMINARY EXAMINATION, REMOVAL HEARING, WAIVED, NOT WAIVED, INTERVENING PROCTMENT, Type Number, OUTCOME

U.S. Attorney, or Asst

ATTORNEYS

Defense: ☐ CJA ☒ Ret ☐ Waiver ☐ Self ☐ None / Other

Levin-Epstein

Nancy Rosner
401 Broadway
N.Y., N.Y.
925-8844

MOSS 1; RUBIN 2

- 6-1-76 Before PLATT, J - Indictment filed
- 6/11/76 Before PLATT, J. - Case called- deft and counsel present- deft waive reading of indictment and enters a plea of not guilty through its attorney. motions set down for 6/25/76 at 10:00 A.M.
- 6/11/76 Notice of appearance filed
- 7/9/76 Before PLATT, J. - Case called. Defts & Counsel Present. Deft's motion for discovery withdrawn as most after having been advised of theri rights by the Court, Defts waive rights to speedy trial and to move for dismissal on grounds of lack of speedy trial. Status report set down for 9/3/76 at 10:00 a.m. rail set down for 11/1/76 at 10:00 a.m.
- 9-3-76 Before Platt, J - case called - set down for conference on 9-17-76
- 9/17/76 Before PLATT, J. - Case called. Trial set down for 11/1/76

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FOR ALL CASES, INCLUDING ANY OCCURRENCE OF EXCLUDABLE DELAY PER 18 USC 5 316(h)

PROCEEDINGS (continued)

PAGE TWO

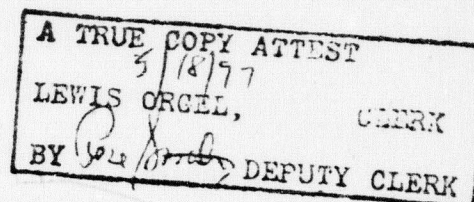
V. EXCLUDABLE DELAY

Interval Start Date (a)	End Date (b)	LU Code (c)	Total Days (d)
9-21-76	Before PLATT, J. - Case called. Deft & counsel present. Adj'd for conference to 9-24-76 at 2 P.M.		
9/22/76	Stenographers transcripts dated 6/25/76, 9/17/76 & 9/21/76 filed.		
9-24-76	Before Platt, J - case called - deft & atty present - court directs that deft retain new counsel - trial set down for Nov. 1, 1976 - certificate of engagement issued.		
9-28-76	Stenographers transcript filed dated 9-24-76		
10-5-76	Stenographich transcript dated 7-9-76 filed.		
10/14/76	Before PLATT, J. - Case called. Defts trial adjd to 11/29/76 at 9:30 a.m. Case set down for waiver of Speedy Trial rights on 10/22/76 at 2:00 p.m.		T
10-22-76	Before Platt, J - case called - deft & counsel present - case set down for trial Nov. 29, 1976		
10-28-76	Before Platt, J.- Case Called. Deft & Counsel Present. Status Report set down for 11-1-76 for substitution of atty.		
11-1-76	Before Platt, J.- Case Called. On Motion of Deft. the case is adjd. to 11-29-76 for Trial with consent of th Govt.		T
11/3/76	Stenographers transcript dated 10/22/76 filed.		
11-24-76	Notice of Motion filed for an order striking, as unnecessary surplusage, the word 'Benchmark' from count 7 of the indictment, returnable December 6, 1976 at 9:30 A.M.		
11/29/76	Before PLATT J - Case called. Deft & Counsel present Govts motion to strike as surplusage in the indictment the word "benchmark" = granted on consent. Redacted indictment to be submitted. Trial adjd to 12/6/76 at 9:30 a.m.		
12-6-76	Before Platt, J.- Case Called. Deft. & Counsel present. Govt's. motion for exclusion of witnesses - granted. Trial ordered and begun. Jurors were selected and sworn. Govt. opens. Deft. opens. Trial continued to 12-7-76 at 10:00 A.M.		
12-7-76	Before Platt, J.- Case Called. Deft. & Counsel present. Govt's. motion that the court sustain objections to certain defenses as irrelevant as a matter of law- Decision Reserved. Trial resumed. Trial continued to 12-8-76 at 10:00 A.M.		
12-8-76	Before Platt, J.- Case Called. Deft. & Counsel present. Trial resumed. Trial continued to 12-9-76 at 10:00 A.M.		
12-9-76	Before Platt, J.- Case Called. Deft. & Counsel present. Trial resumed. Trial continued to 12-13-76 at 10:00 A.M.		

FOR ADDITIONAL PAYMENTS

RECEIPT NUMBER

COUNT NUMBER



UNITED STATES DISTRICT COURT
 CRIMINAL DOCKET

U. S. vs

76 CR 369

AMERICAN IDENTIFICATION PRODUCTS

76
Yr.

369
Docket No.

3
Def.

DATE	PROCEEDINGS (continued) (Document No.)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
12-13-76	Before PLATT, J - case called - deft present - trial adjd to 12-14-76				
12-14-76	Before Platt, J.- Case Called. Trial resumed. Govt. rests. Deft's. motion to dismiss counts one through fourteen inclusive. Motion denied except for count five - Decision Reserved. Trial continued to 12-15-76 at 9:30 A.M.				
12-15-76	Before Platt, J.- Case Called. Deft. & Counsel present. Deft's. motion to dismiss count five (5) of the Indictment is granted. Trial continued to 12-16-76 at 9:30 A.M.				
12-16-76	Before Platt, J.- Case Called. Deft. & Counsel present. Trial resumed. Trial continued to 12-20-76 at 9:30 A.M.				
12-20-76	Before PLATT, J.-Case called-Deft and counsel present-Deft rests- Gov't rests-Both sides sum up-Trial cont'd to 12-21-76 at 9:30 A.M.				
12/21/76	Before PLATT, J- Case called. Deft & Counsel present. Judge charges Jury. Jury retires for deliberations. Jury returns with a verdict of guilty on count 13. Jury is discharged. Motions reserved until sentencing. Bond for deft Corp. set in the sum of \$5,000 to be posted by 12/28/76. Sentence adjd without date. Trial concluded.				
12/22/76	Before PLATT, J.- Case called. Deft & Counsel present. Judge charges Jury. Jury retires for ddliberations. Jury returns with a verdict of guilty on counts 1 through 12 and 14. Jury is discharged. Motions of deft reserved until sentencing. Bail as to deft set at \$10,000 PRB. Sentence adjd without dated. Trial concluded.				
12-23-76	By Platt, J.- Order of Sustenance filed.				
1-3-77	By Platt, J.- Copy of Order filed that the Clerk accept the sum of \$5,000.00 from American Identification Productions Inc., as security for the payment of any fine to which the deft. Corporation may be sentenced.				
1-5-77	Stenographer's Transcripts dated December 6, 1976 (10:00 A.M.) December 6, 1976 (2:40 P.M.), December 7, 1976, December 8, 1976 and December 9, 1976 filed.				
1/10/77	Stenographers transcript dated 12/13/76, 12/14/76, 12/15/76, 12/16/76 and 12/20/76 filed.				
1-25-77	Stenographers transcript filed dated 12-21-76				
2-25-77	Before Platt, J - case called - deft present by its counsel Elliot Taikeff - deft sentence on count 13 to pay a fine of \$5,000. Execution of sentence is stayed pending appeal.				
2-25-77	Judgment & commitment filed.				
3-7-77	Notice of appeal filed - docket entries and duplicate of notice mailed to the court of appeals				

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X

UNITED STATES OF AMERICA

- against -

GEORGE MOSS,
ARNOLD RUBIN and AMERICAN
IDENTIFICATION PRODUCTS, INC.,

Defendants.

----- X

THE GRAND JURY CHARGES:

1. On the 10th day of August, 1970, a petition for arrangement pursuant to Chapter XI of the Bankruptcy Act was filed in the United States District Court for the Eastern District of New York, praying that the Stafford Manufacturing Company, Inc., a corporation organized and existing under the laws of the State of New York, with its place of business at 145 58th Street, Brooklyn, New York, be placed debtor in possession under the control of the Court.

2. Pursuant to the above-mentioned petition, and on the above-mentioned date, the Stafford Manufacturing Company, Inc. was placed debtor in possession under the control of the Court.

3. On the 10th day of August, 1970, the said Chapter XI proceedings were referred to the Honorable Manuel J. Price, one of the referees in bankruptcy of the aforesaid court for further proceedings in accordance with the bankruptcy laws.

4. On the 10th day of August 1972, the Stafford Manufacturing Company, Inc., debtor in possession, was declared and adjudicated a bankrupt by the Honorable Manuel J. Price, referee in bankruptcy for the Eastern District of New York.

Halt J
I N D I C T M E N T

Cr. No. 76 CR 364
(T. 18, U. S.C., §§152,
371 and 2).

5. On the 15th day of August 1972, Max Goldhaber was appointed Trustee of the said bankrupt.

6. During all of the times hereinafter mentioned, the defendant GEORGE MOSS, was the President of the said bankrupt and the defendant ARNOLD RUBIN was an employee of the said bankrupt.

7. At the time of the adjudication of the said Stafford Manufacturing Company, Inc. as a bankrupt, and continuously thereafter until the date of the filing of this indictment, only a part of the assets of said bankrupt have been made available to the officers of the Court, appointed as aforesaid, and to creditors of the said bankrupt, whereas preceding the filing of the said bankruptcy order of adjudication, the said bankrupt had substantial property, including, but not limited to, motor vehicles, machinery, equipment and proceeds of accounts receivable.

8. On or about September 5, 1972 the defendant AMERICAN IDENTIFICATION PRODUCTS, INC. was incorporated as a business corporation chartered and existing under the laws of the State of Maryland. On or about December 29, 1972 the said defendant AMERICAN IDENTIFICATION PRODUCTS, INC. petitioned for and was granted permission to do business, at 145 58th Street, Brooklyn, in the State of New York.

COUNT ONE

Paragraphs 1 through 7, inclusive, are hereby referred to and incorporated by such reference in this Count.

On or about but not later than the 10th day of August 1972, within the Eastern District of New York, the Stafford Manufacturing Company, Inc., the defendant GEORGE MOSS and the defendant ARNOLD RUBIN, in contemplation of a bankruptcy proceeding against said Stafford Manufacturing Company, Inc., knowingly and fraudulently, with intent to

A 10

defeat the Bankruptcy Law, did conceal property belonging to said Stafford Manufacturing Company, Inc., to wit: a 1967 G.M.C. truck, bearing vehicle identification number C6946F. (Title 18, United States Code, Sections 152 and 2).

COUNT TWO

Paragraphs 1 through 7, inclusive, are hereby referred to and incorporated by such reference in this Count.

In or about August 1972, and continuously thereafter until the date of the filing of this indictment, within the Eastern District of New York, the said Stafford Manufacturing Company, Inc., the defendant GEORGE MOSS and the defendant ARNOLD RUBIN did knowingly, intentionally and fraudulently conceal from Max Goldhaber, the Trustee, and from creditors in the said proceeding, property belonging to the estate of the said bankrupt, to wit: a 1967 G.M.C. truck, bearing vehicle identification number C6946F. (Title 18, United States Code, Sections 152 and 2).

COUNT THREE

Paragraphs 1 through 5, inclusive, and paragraph 7 are hereby referred to and incorporated by such reference in this Count.

On or about but not later than the 10th day of August 1972, within the Eastern District of New York, the Stafford Manufacturing Company, Inc. and the defendant GEORGE MOSS, in contemplation of a bankruptcy proceeding against said Stafford Manufacturing Company, Inc., knowingly and fraudulently, with intent to defeat the Bankruptcy Law, did conceal property belonging to said Stafford Manufacturing Company, Inc., to wit: a 1969 Chevrolet station wagon, bearing vehicle identification number 134469B313953. (Title 18, United States Code, Sections 152 and 2).

COUNT FOUR

Paragraphs 1 through 5, inclusive, and paragraph 7 are hereby referred to and incorporated by such reference in this Count.

In or about August 1972, and continuously thereafter until the date of the filing of this indictment, within the Eastern District of New York, the said Stafford Manufacturing Company, Inc. and the defendant GEORGE MOSS did knowingly, intentionally and fraudulently conceal from Max Goldhaber, the Trustee, and from creditors in the said proceedings, property belonging to the estate of the said bankrupt, to wit: a 1969 Chevrolet station wagon, bearing vehicle identification number 134469B313953. (Title 18, United States Code, Sections 152 and 2).

COUNT FIVE

Paragraphs 1 through 5, inclusive, and paragraph 7 are hereby referred to and incorporated by such reference in this Count.

In or about but not later than the 10th day of August 1972, within the Eastern District of New York, the Stafford Manufacturing Company, Inc. and the defendant GEORGE MOSS, in contemplation of a bankruptcy proceeding against said Stafford Manufacturing Company, Inc., knowingly and fraudulently, with intent to defeat the Bankruptcy Law, did conceal property belonging to said Stafford Manufacturing Company, Inc., to wit: a Clark, "fork lift" type truck, bearing serial number CF50B-243-620-LPG. (Title 18, United States Code, Sections 152 and 2).

COUNT SIX

Paragraphs 1 through 5, inclusive, and paragraph 7 are hereby referred to and incorporated by such reference in this Count.

In or about August 1972, and continuously thereafter until the date of the filing of this indictment, within the Eastern District of New York, the said Stafford Manufacturing Company, Inc. and the defendant GEORGE MOSS did knowingly, intentionally and fraudulently conceal from Max Goldhaber, the Trustee, and from creditors in the said proceeding, property belonging to the estate of the said bankrupt, to wit: a Clark, "fork lift" type truck, bearing serial number CF50 B-243-620-LPG. (Title 18, United States Code, Sections 152 and 2).

COUNT SEVEN

Paragraphs 1 through 5, inclusive, and paragraph 7 are hereby referred to and incorporated by such reference in this Count.

On or about the 12th day of August 1972, and continuously thereafter until the date of the filing of this indictment, within the Eastern District of New York, the said Stafford Manufacturing Company, Inc. and the defendant GEORGE MOSS did knowingly, intentionally and fraudulently conceal from Max Goldhaber, the Trustee, and from creditors in the said proceeding, property belonging to the estate of the said bankrupt, to wit: four (4) Benchmark bench drill presses. (Title 18, United States Code, Sections 152 and 2).

COUNT EIGHT

Paragraphs 1 through 5, inclusive, and paragraph 7 are hereby referred to and incorporated by such reference in this Count.

On or about the 1st day of September 1972, and continuously thereafter until the date of the filing of this indictment, within the Eastern District of New York, the

said Stafford Manufacturing Company, Inc. and the defendant GEORGE MOSS did knowingly, intentionally and fraudulently conceal from Max Goldhaber, the Trustee, and from creditors in the said proceeding, property belonging to the estate of the said bankrupt, consisting of the proceeds of accounts receivable of said bankrupt in the amount of one thousand dollars (\$1,000.00). (Title 18, United States Code, Section 152).

COUNT NINE

Paragraph 1 through 5, inclusive, and paragraph 7 are hereby referred to and incorporated by such reference in this Count.

On or about the 25th day of September 1972, and continuously thereafter until the date of the filing of this indictment, within the Eastern District of New York, the said Stafford Manufacturing Company, Inc. and the defendant GEORGE MOSS did knowingly, intentionally and fraudulently conceal from Max Goldhaber, the Trustee, and from creditors in the said proceeding, property belonging to the estate of the said bankrupt, consisting of the proceeds of accounts receivable of said bankrupt in the amount of one thousand one hundred twenty-two dollars and forty-three cents (\$1,122.43). (Title 18, United States Code, Section 152).

COUNT TEN

Paragraph 1 through 5, inclusive, and paragraph 7 are hereby referred to and incorporated by such reference in this Count.

On or about the 10th day of October 1972, and continuously thereafter until the date of the filing of this indictment, within the Eastern District of New York, the said Stafford Manufacturing Company, Inc. and the defendant GEORGE MOSS did knowingly, intentionally and fraudulently conceal from Max Goldhaber, the Trustee, and from creditors in the said

proceeding, property belonging to the estate of the said bankrupt, consisting of the proceeds of accounts receivable of said bankrupt in the amount of one thousand five hundred dollars (\$1,500.00). (Title 18, United States Code, Section 152).

COUNT ELEVEN

Paragraph 1 through 5, inclusive, and paragraph 7 are hereby referred to and incorporated by such reference in this Count.

On or about the 10th day of August 1972, and continuously thereafter until the date of the filing of this indictment, within the Eastern District of New York, the defendant GEORGE MOSS did knowingly, intentionally and fraudulently, after the filing of a bankruptcy proceeding, withhold from Max Goldhaber, the Trustee, a document affecting or relating to the property or affairs of the Stafford Manufacturing Company, Inc. a bankrupt, to wit: the 1972-1973 New York State Department of Motor Vehicles Registration for a 1967 G.M.C. truck, bearing vehicle identification number C6946F. (Title 18, United States Code, Section 152).

COUNT TWELVE

Paragraph 1 through 5, inclusive, and paragraph 7 are hereby referred to and incorporated by such reference in this Count.

On or about the 10th day of August 1972, and continuously thereafter until the date of the filing of this indictment, within the Eastern District of New York, the defendant GEORGE MOSS did knowingly, intentionally and fraudulently, after the filing of a bankruptcy proceeding, withhold from Max Goldhaber, the Trustee, a document affecting or relating to the property or affairs of the Stafford Manufacturing Company, Inc., a bankrupt, to wit: the 1972-

1973 New York State Department of Motor Vehicles Registration for a 1969 Chevrolet station wagon, bearing vehicle identification number 134469B313953. (Title 18, United States Code, Section 152).

COUNT THIRTEEN

Paragraphs 1 through 5, inclusive, and paragraphs 7 and 8 are hereby referred to and incorporated by such reference in this Count.

On or about the 29th day of December 1972, within the Eastern District of New York, and elsewhere, the defendant AMERICAN IDENTIFICATION PRODUCTS, INC. did knowingly, fraudulently and with intent to defeat the Bankruptcy Law, receive a material amount of property from a bankrupt, namely the Stafford Manufacturing Company, Inc., after the filing of a bankruptcy proceeding. (Title 18, United States Code, Section 152).

COUNT FOURTEEN

Paragraph 1 through 7, inclusive, are hereby referred to and incorporated by such reference in this Count.

On or about and between the 1st day of August 1972, and the date of the filing of this indictment, both dates being approximate and inclusive, within the Eastern District of New York, the defendant GEORGE MOSS, the defendant ARNOLD RUBIN and others unknown to the Grand Jury did knowingly and wilfully conspire to commit numerous and divers offenses against the United States, all in violation of Title 18, United States Code, Section 152, by conspiring to defeat the Bankruptcy Law.

It was a part of said conspiracy that the defendants GEORGE MOSS and ARNOLD RUBIN would commit the offenses alleged herein in COUNTS ONE and TWO of this indictment to which Counts this Count refers, and which are adopted by such reference as part of this Count.

It was further a part of said conspiracy that the defendant GEORGE MOSS would commit the offenses alleged herein in COUNTS ONE through TWELVE of this indictment, inclusive, to which Counts this Court refers, and which are adopted by such reference as a part of this Count.

It was further a part of said conspiracy that the defendants GEORGE MOSS and ARNOLD RUBIN would take steps to conceal the existence of said conspiracy and prevent the disclosure of its existence.

In furtherance of the said unlawful conspiracy and for the purpose of effecting the objectives thereof, the defendant GEORGE MOSS and the defendant ARNOLD RUBIN committed, the following:

O V E R T A C T S

(1) In or about August 1972, within the Eastern District of New York, the defendant ARNOLD RUBIN arranged for the temporary storage of a 1967 G.M.C. truck, bearing vehicle identification number C6946F on the premises of the S&M Oil Company.

(2) In or about August, September and October, 1972, within the Eastern District of New York, the defendant GEORGE MOSS caused certain checks to be issued in payment for the storage of a 1967 G.M.C. truck, bearing vehicle identification number C6946F.

(3) In or about August 1972, the defendant GEORGE MOSS caused large quantities of machinery, equipment and fixtures, all property of the Stafford Manufacturing Company, Inc., to be removed from the business premises of the said Stafford Manufacturing Company, Inc. at 145 58th Street, Brooklyn, New York and temporarily stored in Lido Beach, New York.

(4) On October 20, 1975, in New York, New York, the defendant ARNOLD RUBIN denied having any recollection of any arrangements he made to store a truck on the property of the S&M Oil Company, in 1972, or any other time. (Title 18, United States Code, Section 371).

A TRUE BILL.

FOREMAN.

DAVID G. TRAGER
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

No. _____

UNITED STATES DISTRICT COURT

Eastern District of New York

Division

THE UNITED STATES OF AMERICA

vs.

GEORGE MOSS, et. al.,

Defendants.

INDICTMENT

(Title 18, United States Code,
Sections 152, 371 and 2)

A true bill,

Forfeited.

Filed in open court this _____ day
of _____, A. D. 19____

Clerk.

Bill, \$_____

ETHAN LEVIN-EPSTEIN, AUSA^{CPA 802-462}
330-7052

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TRANSCRIPT DATED
DECEMBER 6, 1976.

A 20

MR. LEVIN-EPSTEIN: The Government calls

Mr. Robert Coch, your Honor.

R O B E R T C O C H, called as a witness having been first
duly sworn by the Clerk of the Court, testified as
follows:

DIRECT EXAMINATION

BY MR. LEVIN-EPSTEIN:

Q Mr. Coch, are you employed?

A Yes, sir.

Q What is your occupation?

A I'm a sales coordinator for Clark Equipment
Company.

Q What is the nature of your duties as sales
coordinator for Clark Equipment?

A Ordering equipment, taking trucks out of
stock, all the necessary paper work to fulfill an order for
the salesman.

Q Basically, what does the Clark Equipment Company
provide, what kind of equipment?

A We manufacture fork lift trucks, hi-lo's.

Q In lay terms, what is a fork lift truck?

A A fork lift truck is a material handling piece
of equipment that stacks merchandise, and moves, transports
merchandise from loading docks to a warehouse. Things of
that nature.

Coch-direct

Q Would you say it is sometimes -- you say it is called a hi-lo?

A Yes, sir.

THE COURT: It has two sticks that stick up in the front and lifts up the merchandise?

THE WITNESS: Yes.

Q During the course of your employment, have you become familiar with the business records of the Clark Fork Lift -- I beg your pardon, -- the Clark Equipment Company?

A Yes, sir, I have.

Q Are you familiar with the property or the equipment and commodities that are sold or leased by Clark?

A Yes, sir.

Q I show you a photograph which has been previously marked Government's Exhibit 7 for identification, and I ask you, do you -- I beg your pardon. Do you recognize what is depicted in that photograph?

A Yes, sir. It is a fork lift truck. It is apparently manufactured by Clark and it appears to be a CF modeled truck. Four or five thousand pounds capacity.

Q Are you familiar with this device?

A Yes, sir, I am.

Q Does the photograph portray it in a true and accurate manner?

Coch-direct

A Yes, sir, it does.

MR. LEVIN-EPSTEIN: Offer it in evidence, your Honor.

MR. TAIKEFF: No objections.

MR. SHERMAN: No objections.

THE COURT: It will be received.

THE CLERK: Government's Exhibit 7, photograph, marked in evidence.

(So marked)

Q Is a CF-50, modeled fork lift, a particular model which is manufactured by Clark?

A Yes, sir, it is.

Q And that is the particular kind there?

A Yes, sir, it is.

Q In the normal course of the manufacturing process at Clark, is the device painted in any particular color or way?

A The standard color is green on Clark machines right now.

Q Does it appear to be the standard color in that photograph to you, sir?

A No, sir, it doesn't. It is a white in this photo.

Q I see. I direct your attention, Mr. Coch, to

Coch-direct

3a

Government's Exhibit 8 for identification and I ask you if you recognize these photostatic documents stapled together?

A Yes, sir. These are copies of a lease between Clark Equipment Company and Stafford Manufacturing Incorporated.

(Continued next page)

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Q Are documents such as these kept, prepared and maintained in the ordinary course of business of the Clark Company?

A Yes, sir, they are.

Q And was this document or the original of it kept, prepared and maintained in the ordinary course of business of Clark?

A Yes, sir.

Q Based upon my request, did you search the records and files of Clark to try and obtain the original of this document?

A Yes, sir, I did.

Q Were you able to do so?

A No, sir, because after a seven year period of time, they are destroyed.

Q Is this document dated more than 7 years ago?

A Yes, sir, it is.

MR. LEVIN-EPSTEIN: Thank you. Offer it in evidence, your Honor.

MR. TAIKEFF: No objection.

MR. Sherman: No objection.

MR. LEVIN-EPSTEIN: I ask that it be marked, your Honor.

THE COURT: Yes.

1
2 THE CLERK: Government's Exhibit 8, photocopy,
3 lease, marked in evidence.

4 (So marked.)

5 MR. LEVIN-EPSTEIN: Thank you.

6 Q You indicated a moment ago, Mr. Koch, that this
7 was a lease agreement, is that correct?

8 A Yes, sir.

9 Q Could you tell us, please, who the lessor is
10 and who the lessee is?

11 A The lessor would be Clark Leasing Corporation.
12 And the lessee being Stafford Manufacturing Company, Ind.

13 Q That's dated, sir?

14 A October 19, 1964.

15 Q Are you familiar with the process by which --
16 I beg your pardon -- documents such as these are executed and
17 created?

18 A Yes, sir. I am.

19 Q Would you briefly describe to the jury what a
20 lease arrangement of this kind means?

21 A Well, this particular lease is for a three year
22 period of time, where the customer makes a monthly installment
23 for X number of dollars and at the termination of the agree-
24 ment, he purchases the machine for \$1.

25 Q And is this in other words an agreement by

Goldhaber-direct

BY MR. LEVIN-ZPSTEIN (Cont'd):

Q Would it be fair to say, Mr. Goldhaber, that these checks are reflected in your check book?

A They are.

Q And you recognize your endorsement?

A Yes, I do.

Q Would it be fair to say that these two checks, Government's Exhibits 12 and 13 now marked in evidence, are typical of checks that you received which were negotiated by you into the estate account?

A Yes, they are. And that is fair to assume.

Q Thank you. By the way, as we have been talking about these checks, you have been making reference to this black book?

A That is the original check book which shows my disbursements and receipts.

Q There is a photocopy of that and that is Government's Exhibit 11 in evidence?

A That's correct.

Q During the course of your duties as trustee of this estate, did you ever hear about a Clark fork lift truck that was owned by Stafford Manufacturing Company?

A Not until, at the same time I heard about the truck and the station wagon.

10 Q Did you ever hear about certain bench master,
3 bench presses?

4 A That, I can't say, because --

5 Q Very well then.

6 A Presses, we had.

7 Q I direct your attention -- just a moment, please.
8 I would ask you to look through your check book there,
9 Government's Exhibit 11 in evidence, and would you tell the
10 jury, please, whether there is any reference in your check
11 book at all of ever having received a check from the Sperry
12 Gyroscope Company, made out in the amount of \$1,122.43?

13 A What date?

14 Q If you will allow me a moment, I'll tell you.
15 That check would be dated -- if you will bear with me a
16 moment, Mr. Goldhaber. September 22, 1972.

17 A What was the amount?

18 Q \$1,122.43.

19 A No, I have no record of having received such a
20 check.

21 Q Did you ever receive or did you ever receive
22 notice of a check made out to Stafford Manufacturing Company
23 from the Sperry Gyroscope Company in the amount of \$236.75,
24 dated August 25, 1972?

25 A I have no record of any such check.

Goldhaber-direct

11 2 THE COURT: What was the amount of that check
3 again?

4 MR. LEVIN-EPSTEIN: I beg your pardon, your
5 Honor?

6 THE COURT: The amount of the check?

7 MR. LEVIN-EPSTEIN: The amount of the check
8 is \$236.75.

9 Q Did there ever come a time during the course
10 of your status as trustee in this estate, that you received
11 any notice at all from Mr. Moss or anybody about a check
12 made out in the amount of \$200.29 from Sperry to Stafford
13 dated September 1, 1972?

14 A I have no such record in my book.

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2 Q During the course of your association with this
3 estate as trustee, did there ever come a time, sir, when you
4 received notification of any kind whatsoever with respect to
5 a check made out to Stafford from the Surless Ship Company in
6 the amount of \$1,000, which check was dated September 1, 1972?

7 A I have no such record in my books at all.

8 Q What about a check from the Surless Ship
9 Company dated October 9, 1972 in the amount of \$1,500?

10 A I have no such record at all.

11 Q If such checks were accounts receivables of
12 the corporate bankrupt, would you have been notified?

13 A Well, counsel would have made demand for
14 payment.

15 Q To your knowledge, did you know that these
16 checks ever came in?

17 A Not to my knowledge. Could I see the endorse-
18 ment on them?

19 Q Mr. Goldhaber, I show you copies of Government's --
20 I beg your pardon. I show you Government Exhibits 31 and 33
21 for identification. I ask you if you have ever seen either or
22 both of those documents before? You may examine whatever
23 portion of them you wish.

24 A I have never seen them.

25 MR. LEVIN-EPSTEIN: I will ask the Court to

Goldhaber-cross-Taikeff

of his efforts with respect to the success of the Chapter 11 venture?

MR. LEVIN-EPSTEIN: Your Honor, may I interrupt briefly and ask for a side bar just momentarily?

THE COURT: Yes.

(The following took place at the side bar.)

MR. LEVIN-EPSTEIN: I just want Mr. Taikeff to know exactly where he's going with this. Under certain provisions of the Bankruptcy Act -- and, of course, I assume he knows that his client has a Fifth Amendment privilege about certain comments or statements that he may have made during the course of the bankruptcy proceeding. If Mr. Taikeff is fully aware of this Fifth Amendment and insists going forward with this line, of course, the Government has no objection. But I want him to be fully aware of the Fifth Amendment privilege.

(Continued next page)

Goldhaber-cross-Taikeff

jb/ss

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2 MR. TAIKEFF: To be perfectly honest, I don't
3 know what Fifth Amendment he is referring to when it
4 comes to this particular witness. This witness was
5 not his counsel at any time.

6 MR. LEVIN-EPSTEIN: I am merely making the
7 statement for a complete record.

8 MR. TAIKEFF: Well, can the Government tell us
9 whether this witness was ever counsel personally to
10 Mr. Moss.

11 MR. LEVIN-EPSTEIN: I suggest that he ask his
12 client that.

13 THE COURT: I don't know what the significance
14 of the comment is, but apparently you may be treading
15 on some area where your client may be waiving a
16 portion of his Fifth Amendment privilege. Maybe you
17 better check with your client. I don't know. I don't
18 know where you are going. I don't mean I -- you haven't
19 told me.

20 MR. TAIKEFF: I appreciate Mr. Levin-Epstein's
21 comment. I just wish to indicate that I -- I don't
22 know what his comment means because I don't understand
23 the connection between --

24 THE COURT: We will have to wait and see.

25 (End of sidebar.)

TRANSCRIPT DATED
DECEMBER 7, 1976.

8 1 Seifer-direct

2 Q Where were the keys kept?

3 A My pocket.

4 Q How many sets of keys for the truck and how many
5 sets of keys for the stationwagon were there?

6 A Two sets.

7 Q Duplicates for each?

8 A Yes.

9 Q Where did you keep the duplicate?

10 A My pocket.

11 Q Did you ever leave the keys in the office at the
12 end of a day?

13 A No.

14 Q You kept it with you?

15 A Yes.

16 Q During the course of time that you were the
17 custodian of the keys, as it were, and the driver of the truck,
18 can you tell us whether or not you ever received any certi-
19 ficates of registration or operator for either or both of
20 these vehicles?

21 A Yes.

22 Q What did you get?

23 A Operator of the truck.

24 Q I'm sorry?

25 A Operator of the truck.

Seifer-direct

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Q The operator. Is that the same as the registration?

A Registration, yes, sir.

Q Who gave the registration to the truck to you?

A Nat Moss.

Q I'm sorry?

A Nat Moss.

Q Nat Moss?

A Yes.

Q Did you keep the registration to the truck in your possession at all times?

A Yes.

Q The same as the keys?

A Yes.

Q What about the stationwagon?

A Stationwagon also.

Q The same thing?

A Yes.

Q I show you premarked as Government's Exhibit 16 for identification, Mr. Seifer. I'll ask you to look at this document contained in the plastic envelope and tell the jury, please, if you recollect that document?

A Yes.

Q I'm sorry?

Seifer-direct

Wait, Mr. Sherman and Mr. Brooks, I guess, haven't had a chance to look at it again.

MR. SHERMAN: No objection.

MR. LEVIN-EPSTEIN: May it be marked.

THE CLERK: Government's Exhibit 17, marked in evidence.

(so marked)

MR. LEVIN-EPSTEIN: Thank you. Ladies and gentlemen, with the Court's permission, Government's Exhibit 17 is also a New York State registration. Government's 17, however, contains both part 1 and part 2. This is a registration in the name of Stafford Manufacturing Company, Inc, for a 1967 GMC truck, serial number -- I have to find it on here. excuse me.

C-6946-F, and this registration expires one year after Government's Exhibit 16, on April 30 of 1973. It is signed by George S. Moss.

DIRECT EXAMINATION

BY MR. LEVIN-EPSTEIN: (continued)

Q Now Mr. Seifer, directing your attention to this truck, did there ever come a time when you received specific instructions about what to do with respect to the truck from Mr. George Moss; do you recall that event?

1
2 you removed?

3 A A punch press --

4 Q You have to slow down.

5 A Two press machines and a die press machine,
6 two drill presses --

7 Q Go on.

8 A -- and parts of machinery.

9 Q Mr. Seifer, I am sometimes repeating your
10 answers only because I want to make sure the record is clear.

11 When I repeat your answers, if I have misstated
12 something that you said or I have not understood you, please
13 correct me.

14 A Yes.

15 Q Now, when Mr. Moss told you to take this
16 machinery out of the shop and take it out to Long Beach, did
17 he tell you how he wanted it transported?

18 A No, sir, he no tell me. He tell the foreman.

19 Q Did you have a conversation with the foreman
20 after that?

21 A Yes.

22 Q By the way, who was the foreman?

23 A He is a colored foreman, Matthews --
24 William Matthews.

25 Q Matthews, William?

Seifer - direct

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- 2 A He told me I have to go to Long Beach.
- 3 Q He said to go to Long Beach?
- 4 A Yes.
- 5 Q What happened then?
- 6 A When I was loaded the truck, he said --
- 7 Mr. Moss -- I go in front and wait for us in Long Beach.
- 8 Q Let me finish my question:
- 9 You say Mr. Moss went in front?
- 10 A Yes.
- 11 Q You mean you went behind him?
- 12 A Yes.
- 13 Q Did he go in a different vehicle?
- 14 A He go in his own car.
- 15 Q And you followed him in the truck?
- 16 A Not much, because I have to go the side road.
- 17 Q Why did you have to go on the side road, if
- 18 he didn't?
- 19 A Because the main road can't drive a truck.
- 20 Q Did there come a time when you arrived -- By
- 21 the way, did anybody else go on the truck with you?
- 22 A Yes.
- 23 Q Who else?
- 24 A George Gross.
- 25 Q I am sorry?

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A George Gross.

Q George Gross?

A William Matthews.

Q The same foreman?

A Yes.

Q Who else?

A And Willie.

Q And a man named Willie?

A I don't know the second name.

Q Now, when you and the three other men drove the truck, did there come a time when you arrived in Long Beach, Long Island, New York?

A Yes.

Q Did you then meet with George Gross -- I beg your pardon, George Moss?

A Yes.

Q Did you have a conversation with Mr. Moss when you arrived out in Long Island?

A In Long Island he told me, "Follow me."

Q Did you follow him?

A Yes.

Q What happened then?

A We find a building, a grocery store.

Q You went to a grocery store?

1 A In front of the building.

2 Q What happened at this building?

3 A I stopped there and Mr. Moss -- George Moss
4 call William down and they go inside the store. It was
5 an empty store.

6 Q It was an empty store?

7 A Just the furniture was there.

8 Q After George Moss and the foreman went inside
9 the store, what if anything happened then?

10 A William come out and said to me, "Drive in
11 the street to the back yard."

12 Q Did you drive the truck then to the back yard,
13 behind the store?

14 A Around to the parking place.

15 Q Wait until I finish.

16 And you parked there?

17 A Yes.

18 Q What color was the truck on this day?

19 A Yellow.

20 Q What happened when you pulled around to the
21 back yard, behind this empty store?

22 A I push open the door.

23 Q Go on.

24 A And Mr. Moss inside opened the door.

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Q Inside the building?

A Inside the building, opened the door.

Q Then what happened?

A And we start to unload.

Q And you unloaded the truck?

A Yes.

Q Where was the equipment from Stafford
Manufacturing placed?

A 145 58th Street --

Q Where was it placed, when you unloaded the
truck?

A In Long Beach.

Q Where did you put the machinery?

A In the store.

Q I see. Now, can you describe to the jury what
that back lot area looked like?

A A parking lot, and there were three doors in
the aback of the building, the last one black.

Q The last door was black?

A Where we unloaded there.

Q This balck door, could you tell the jury where
the black door led to?

A It go inside, the back door.

Q It went inside the store?

HS/tk

Seifer - direct

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Q What did you drive back to the shop in?

In other words, did you drive the truck back to the shop?

A Yes.

Q The yellow truck?

A Yes.

Q Did George Gross and the others go with you?

A All again was there.

Q Did there come a time then, after you dropped the truck off at the shop, when you left work for the day?

A I go to the station wagon after.

Q After working with the station wagon, did you leave work?

A Yes.

Q Is that the 1967 yellow station wagon?

A Yes.

Q Drawing attention to the following day, August 11, 1972, the next day did there come a time when you arrived at work that morning at Stafford?

A Yes.

Q Did you have a conversation with Mr. George Moss about the truck on that morning?

A At that time I had no conversation.

Q Who did you have the conversation with about.

1
2 the truck?

3 A Matthews.

4 Q As a result of that conversation with
5 William Matthews, what did you do?

6 A He say that I have to --

7 Q I do not want you to tell the jury what he
8 told you. I only want you to tell the jury what you did next,
9 not what you heard, but what you did.

10 A Yes.

11 Q What did you do?

12 A I walked up to the garage on 57th Street, I
13 take --

14 Q There was a garage on 57th Street.
15 What truck did you get there?

16 A The Chevy, the GMC.

17 Q This truck here (Indicating)?

18 A The same truck.

19 Q Where did you bring that truck?

20 A I bring it down to the shop.

21 Q What happened there?

22 A Backed into the door and they bring again some
23 material out.

24 Q More material?

25 A More material.

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2 Q Where did this additional material come from?

3 A The shop.

4 Q Could you describe -- I'm sorry.

5 A Stafford Manufacturing.

6 Q Can you tell the jury to the best of your
7 recollection what material from Stafford Manufacturing was
8 loaded on the truck the second day?

9 A We loaded some parts for the printing machinery.

10 Q Parts for the printing machinery?

11 A Yes.

12 Q Can you describe it with any greater particularity
13 than that?

14 A It was a roller -- about twenty-five, thirty
15 pieces. The motor for the printing machine and a couple of
16 dies.

17 Q Dies?

18 A Yes.

19 Q After this machinery and equipment was loaded
20 on the truck -- By the way, who helped you load the truck
21 the second morning?

22 A The same gang, William, Willy, and George Gross
23 and myself.

24 Q What did you do then?

25 THE COURT: Wait a minute.

We are talking about the same yellow truck?

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2 THE WITNESS: Yes.

3 THE COURT: Go ahead.

4 Q What did you do with the yellow truck after
5 it was loaded on the second morning?

6 A We drive out to Long Beach, Long Island.

7 Q Where in Long Beach did you go on the second day?

8 A The same place.

9 Q Did Mr. Moss go with you on the second day?

10 A No.

11 Q Did you know how to get there yourself?

12 A Yes.

13 Q When you got out there on the second day, did
14 there come a time when you pulled into the back, as well?

15 A Yes.

16 Q What happened then?

17 A We unloaded the truck.

18 Q Where did you put the equipment that was taken
19 from Stafford on the second day?

20 A The same place as the first day.

21 Q Inside the store?

22 A Yes.

23 Q Who had the key on the second day?

24 A William.

25 Q The foreman?

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A Yes.

Q Did you know him before you saw him here today?

A Yes.

Q When did you first meet him?

A A long time -- since I work there.

Q At Stafford?

A Yes.

Q Did Mr. Rubin work at Stafford?

A Was there too.

Q Now, did you meet with Mr. Rubin in or about
the pizza parlor on that day?

A Outside.

MR. TAIKEFF: May I have the date?

MR. LEVIN-EPSTEIN: August 11th.

Q Where outside the pizza place?

A The parking lot.

Q Where the truck was?

A Yes.

Q Did you have a conversation with Mr. Rubin at
that time?

A Mr. Rubin said to me I have to leave the truck
on Long Island somewhere.

Q Did you say anything to him in response?

A I said okay.

1
2 Q Then what happened -- By the way, was Mr. Rubin
3 driving a car of his own on that day?

4 A Yes.

5 Q What kind of car?

6 A Volkswagon van.

7 Q What happened then?

8 A Mr. Rubin driving the Volkswagon and I drive
9 him on Austin Boulevard, stopped -- how you call -- all night
10 eating place I stop.

11 Q What happened there?

12 A Mr. Rubin walk in and talk to the people and
13 they want to park the truck in the back yard.

14 Q Let me ask you a question:

15 Did you ask Mr. Rubin who told you that the
16 truck was to be left?

17 A No, I don't ask him nothing.

18 Q Did he tell you?

19 A He told me, "Just follow me."

20 Q After Mr. Rubin told you to follow him, and
21 after you went to this eating place, as you described it,
22 did there come a time when you went somewhere else?

23 A Yes, I follow Mr. Rubin.

24 Q Where did you follow Mr. Rubin to?

25 A Austin Boulevard.

1 Q Where on Austin Boulevard did you go?

2 A The heating place.

3 Q I am sorry, heating and not eating place. I
4 apologize I am not quite understanding what you said.

5 THE COURT: I thought he said all night eating
6 place.

7 THE WITNESS: It's a dealer.

8 MR. LEVIN-EPSTEIN: A fuel oil place.

9 THE COURT: It is not an all night eating
10 place, it is an all night heating place?

11 THE WITNESS: It is my broken English.

12 Q Is it fair to say, that what you meant to say
13 was "oil heating place"?

14 A Yes.

15 Q When you went to this oil heating place, sir,
16 was Mr. Rubin with you or did you accompany Mr. Rubin?

17 A Yes, he was there.

18 Q What happened there?

19 A Mr. Rubin walk in the store, talk to the people,
20 and about five, ten minutes walked out.

21 Q After Mr. Rubin came out, after talking to the
22 people, what if anything did he say to you?

23 A "Drive in the back yard."

24 Q Did you drive the truck into the back yard of
25

1
2 this oil heating place?

3 A Yes.

4 Q What did you do with the truck there?

5 A I left it -- I stopped the engine there to the
6 next door building and left the truck there.

7 Q Were there other trucks there?

8 A There were two trucks, the heating place's.

9 Q Heating oil trucks?

10 A Yes.

11 Q After you parked the truck, in the back of
12 the oil heating place, what if anything did you do with
13 the key to the ignition?

14 A One key I give to the people, the owner of the
15 heating place. I give to Mr. Rubin and Mr. Rubin give to
16 the gentleman.

17 Q After --

18 A I am not sure if I give to Mr. Rubin or the
19 gentleman, but I know that I left a key there.

20 Q You left a key there?

21 A Yes.

22 Q After you left the key at the fuel oil or the
23 heating oil place, did you thereafter leave?

24 A Yes.

25 Q How did you leave? Did you drive away?

1 Seifer - direct
2 You rented a truck?

3 A Yes.

4 Q When the truck was rented, can you tell the jury
5 please, how the payment was made for that rental?

6 A By check.

7 Q Do you know what kind of a check that was?

8 A A pink check.

9 Q Did you recognize the check as being a pink
10 check on a particular account?

11 A Yes, I recognized it.

12 Q What account was that check written on?

13 A It's a check -- the guy asked Mr. Moss. A
14 check for the company. He said Mr. Moss' -- it is not the
15 company check. He said Galgan.

16 Q Galgan?

17 A Galgan.

18 Q So the representative -- I beg your pardon --
19 the representative on this truck at the Hertz Corporation on
20 August 2d was paid with a Galgan Realty check?

21 A Yes.

22 Q Was that done in your presence?

23 A Yes.

24 Q As a part of the transaction to rent this truck,
25 was it necessary for you at any time to present any of your

own personal documentation?

A Driver's license.

Q What happened -- by the way, who did you give your personal driver's license to?

A Give it to the gentleman where it rented.

Q The Hertz man?

A Yes.

Q What did he do in your presence with your driver's license, if anything?

A He mark it down for my name, the number of the license and --

Q I see. I show you a photostatic copy of a document which is marked Government exhibit 21 for identification and I ask you if you will take a look at that and tell the jury if you recognize that copy?

A Yes. It is my license.

Q This is a photocopy of your license?

A Yes.

Q Was this photostatic copy made of your original license?

A Yes.

Q Is it a true and accurate copy of your original license?

A Yes.

Seifer - direct

MR. LEVIN-EPSTEIN: Thank you.

I offer it in evidence.

MR. TAIKEFF: No objection.

MR. SHERMAN: No objection.

THE CLERK: Government exhibit 21 marked in evidence.

MR. LEVIN-EPSTEIN: Ladies and gentlemen just for the record, the motorist identification number -- in other words, the serial number on this driver's license with reference to Mr. Seifer is D0531320709485692-11.

Q Now, Mr. Seifer, after this Hertz truck was rented on August 12th of 1972, did there come a time when it was driven away from the Hertz establishment?

A Yes. Going back to the shop.

Q After you -- did you drive it?

A Yes, I drive it back.

Q After you drove it back to the Stafford shop, what if anything was done with it there?

A Load it again.

Q What was it loaded with?

A Dyes.

Q Dyes?

A Dyes. Yes.

Q Anything else?

Seifer - direct

1 A And two shearing machines.

2 Q Shearing machines?

3 A Shearing machines. Some.

4 Q I can't hear you.

5 A And some material.

6 Q Some material?

7 A With the name plate.

8 Q Some material. Can you describe it with any
9 greater particularity than you have, the material that was
10 removed?
11

12 A I --

13 Q In other words, can you describe it any more
14 specifically or carefully or is that the best you can do?

15 A Just that time it was the load -- just call it
16 the dyes, this material and some -- pardon me. I have some
17 tools. Some tools. There is a metal box.

18 Q The tools were in a metal box?

19 A No. It is a big basket.

20 Q A basket of tools?

21 A Yes.

22 Q I see.

23 A I don't know. I no look in so much.

24 Q But there --

25 A This was inside.

Seifert - direct

Q This was loaded? You said you didn't look at it carefully?

A I didn't look at it carefully. On the top, I see it in there.

Q This was loaded on the truck?

A Yes.

Q And where was it taken, if anywhere, after it was loaded on the truck?

A I drive down to Long Beach.

Q Same place in Long Beach?

A Yes.

Q At whose instructions?

A Williams was there.

Q This was the foreman?

A Yes.

Q Now, after the truck was unloaded, I assume it was unloaded out in Long Beach, was it?

A Yes.

Q After the truck was unloaded in Long Beach, did the truck -- was the truck driven back to the shop?

A Yes.

Q By the way, was it standard practice and was it normal business practice at Stafford for you to receive your orders from Matthew Williams after he had received the orders

Seifert - direct

A Who was the boss? Mr. Moss, he was the boss.

THE COURT: All right.

Q Now, after the Hertz truck that had been rented on August 12 was returned to Stafford Manufacturing, what if anything happened that you did with the truck after that?

A Take it back to Hertz.

Q It was returned to Hertz on that same day?

A Yes.

Q O.K. Now, directing your attention to August the 31st -- strike that, please.

Directing your attention to the period following August 12th when this first Hertz truck was returned, did there come a time on August 31st when something happened with respect to a truck?

A Rent a truck.

Q You rented a truck on that day?

A Yes.

Q When I say, "You rented a truck," did you personally pay for it?

A No. Mr. Moss.

Q How was the second truck rented on August 31st?

A Same thing as the first one.

Q The Galgan realty check?

A Yes.

Seifert - direct

1
2 Q Were you present when it happened?

3 A Yes.

4 Q Did they use your license again?

5 A Yes.

6 Q Did you pick the Hertz truck up on that day?

7 A Yes.

8 Q Where was the yellow GMC '67 truck?

9 A I left in the oil place. I don't know what
10 happened.

11 Q So on August 31st another Hertz truck was
12 rented; is that correct?

13 A Yes.

14 Q And where did you bring that truck after it
15 was taken from the Hertz rental place?

16 A Bring it back to the shop again.

17 Q What was done with this truck after it was
18 brought back to the shop?

19 A I take again a trip -- one trip to the ford --
20 I take a trip to Long Island.

21 Q You took that to the Long Island location also?

22 A Yes.

23 Q As with the truck when you took it to the Long
24 Island location on October 31st?

25 A Also more dyes.

7am

Q Well, did they put it on everything that was in the shop?

A Yes.

Q Did they put it on everything that you removed to Long Beach?

A No.

Q Did they put it on the 1967 GMC yellow truck?

A No.

Q Did they put it on the 1969 Chevrolet station wagon, the yellow one that you drove?

A No.

Q And where was that car, by the way?

A The car? It was in the back yard -- behind in the yard in his mother's house. Mr. George Moss's mother.

Q How do you know?

A I see it.

Q When did you see it there?

A Before I -- this is before three weeks. Go down. Sent it down to Mr. Moss. So I was -- There was a police there. They sent it down to clean them up with a couple of guys, the garage and the back and everything.

Q When you went down to Moss's house --

A --

Q Excuse me. When you went to Moss's house,

Seifer - direct

1
2 A Mr. Moss.

3 Q What was the name of the company when you came
4 back?

5 A American Identification.

6 Q American Identification?

7 A Yes.

8 Q It was not called Stafford any more?

9 A No.

10 Q By the way, let's just backtrack a moment in
11 time to before the auction. Directing your attention to a
12 period of time before the auction, were you aware -- strike
13 that.

14 You said that you knew about a fork lift truck
15 that was used? In fact, you had used it on occasion?

16 A Yes.

17 Q When the men came to put the tag on the equip-
18 ment and machinery, where was the fork lift truck on that day?

19 A Next door.

20 Q Next door where?

21 A 139 58th Street.

22 Q That was the building adjacent to 145 58th Street?

23 A Yes.

24 Q Was there a door, a common door to both buildings?

25 A It's going to gether, yes. You have a door.

5
1

A 58

Seifer - direct

243

2

Q You have a common door?

3

A Slip in the door outside and inside.

4

Q Outside and inside.

5

6

Did you see this truck or fork lift truck in
the next door building?

7

A Yes.

8

9

Q After this truck was placed in the -- By the
way, do you know who put the truck next door?

10

A George Moss.

11

Q George Moss?

12

A Yes.

13

14

15

Q After the truck was placed next door, can you
tell us whether or not the door -- the inside door was
opened or closed?

16

A It was closed.

17

Q Was it locked?

18

A Yes.

19

Q Was there any writing of any kind on that door?

20

A Not inside. Outside.

21

Q Outside. What writing was there outside?

22

A The door is -- the office door was signed

23

Galavant Realty.

24

Q The sign on the outside said Galavant Realty?

25

A Mr. George Moss.

Seifer-direct

A 59

7 1
2 Q Who was it?

3 A American Identification.

4 Q How long did they rent the second U-Haul truck?

5 A About a month.

6 Q Until about the end of October?

7 A Yes.

8 Q Now, directing your attention, sir, to April
9 of 1973, the springtime of 1973, did there come a time at
10 approximately that time when you had a conversation with
11 Mr. George Moss about a truck, that you recall?

12 A Yes.

13 Q What did he say to you, sir, and what did you
14 say in response?

15 A He said to me I buy a truck the same type of
16 truck as before, 1967 GMC.

17 Q Buy the same type of truck?

18 A Yes.

19 Q What was your understanding of his meaning?

20 A The same truck, '67 GMC.

21 Q What did you say to him?

22 A He said okay.

23 Q What did he say to you then?

24 A He said to me, you have to go out and pick it
25 up.

8

1

Seifer-direct

2

Q Did he tell you where to go pick up the truck?

3

A Not Mr. George Moss, Nat Moss sent out.

4

Q Where did Mr. George Moss' brother Nat send you to get the new truck?

6

A This Lynbrook.

7

Q Did you take anything with you out to Lynbrook to pick up the truck?

9

A I take a check and a note.

10

Q What kind of a check was this?

11

A The check was American Identification check.

12

Q Was this check given by you to someone?

13

A Give it to the mechanic, the owner, I don't know who it was.

15

Q When you got to Lynbrook to this place where you were sent, did there come a time when you arrived out there that you met with this mechanic as you described him?

18

A I go inside the office, I say Mr. Moss send over to pick up the truck.

20

Q What happened then?

21

A The guy go across the street, you check on the truck if everything all right, I go outside and sat in the truck and I look in the truck, it was so familiar to me.

24

Q It was familiar to you? Let me ask you this question: When you went across the street from the place

25

Seifer-direct

9 1
2 where you went to pick up the new truck and you saw this
3 truck that was there, what was there about the new truck that
4 was familiar to you, sir?

5 A Because I was -- every year I use the truck.

6 Q What about the truck itself that was familiar
7 to you, what did you recognize about that particular truck?

8 A A spare key.

9 Q What did you do with the spare key?

10 A I put it in the ignition and start the car.

11 Q Did the new car start with the old truck key?

12 A Yes.

13 Q The truck was still yellow, was it?

14 A No, blue.

15 Q Now, the old truck, the yellow truck, did that
16 have any writing on the side of it or any sign of any kind?

17 A Yes.

18 Q What did it say?

19 A The new truck?

20 Q No, the old yellow one.

21 A Yes, 145 58th Street, Stafford Manufacturing.

22 Q It said Stafford Manufacturing?

23 A Yes.

24 Q What about the new blue one, did it have writing?

25 A When I take over, no.

10 1

Seifer-direct

2

Q It didn't have any writing?

3

A Nothing.

4

Q Q After you took the key to the yellow truck and started up the new blue truck, what did you do with the truck?

7

A First, I go back to the office, I give it to the guy, and I give the original key to the truck and I sit in the truck and drive back to the truck

10

Q You paid the man where you picked the truck up?

11

A Yes.

12

Q When you brought this new blue truck back to American Identification Products at 145 58th Street, Brooklyn, New York, did there come a time following that period when you used that new blue truck as part of the business operations?

17

A Yes.

18

Q And as part of the normal business operation, did there come a time when you came into possession of a registration or ownership as you call it for the new blue truck?

22

A Yes.

23

Q Who gave that to you?

24

A Mr. Moss.

25

Q Which Mr. Moss?

their coat or hat that may have been hanging on the rack?

MR. LEVIN-EPSTEIN: If he knows, your Honor.

A I understand perfect the question. Personally?

Q Personal property. Something that wasn't factory property?

A I don't know. I don't think so. I don't think so.

Q Did they have any equipment or dies that belonged to their father? Stored on the premises?

A Yes.

Q Yes?

A Yes, was there.

Q Did you ever see that stuff?

A Yes.

Q Where was it kept?

A In the back, 57th Street.

Q In the back of what?

A 57th Street. They have two exit. One in the back, one in the front. 58th and 57.

Q The block runs from 58th Street to 57th Street?

A Across 57, yes.

Q The front entrance is on 58th Street?

A 57.

Q 57?

Seifer-cross-Taikeff

1
2 pocket, my wallet.

3 Q But you gave that registration to the F.B.I;
4 didn't you?

5 A Which one, not the station wagon.

6 Q No. Did you ever give it back to anybody?

7 A I gave it to Mr. Moss, the station wagon.

8 Q When did you give it to him?

9 A When he take hom the station wagon. He satisfy
10 I drive hom the station wagon. And I don't see a couple of
11 week. Then after I go dwon with the yellow truck, his
12 mother's house clean him up I said before, clean him up the
13 backyard and the front yard. The house was a mess. When I
14 see the backyard, the station wagon there and I don't ask a
15 question of Mr. Moss, what happened the station wagon. It
16 is not my business, keep it there, keep it there, the mother's
17 house.

18 Q How tall were the punch presses you moved,
19 from the ground up?

20 A This moved hi-lo.

21 Q I'm sorry?

22 A Hi-lo.

23 Q I didn't ask you how you moved it. I asked
24 you how tall the pie e of machinery?

25 A The heist of the machinery?

pieces I have to take over there from the shop.

Q Anybody else?

A And Williams.

Q That's it?

A Yes.

Q When you testified under oath -- you know what that means, testifying under oath?

A Yes.

MR. LEVIN-EPSTEIN: Objection.

THE COURT: I will allow it.

Q When you testified under oath on April 10, 1975, did you tell the referee that Nat told you to take the stuff out?

A Actually --

Q Yes or no.

A Yes, I did.

Q Okay. When you testified before the Grand Jury, did you tell them that a fellow you worked with in the place looks like -- name is Chuck, told you to take the stuff out.

A He did. He help us too.

Q He helped you?

A Yes.

Q But did you tell the Grand Jury that he was the one who told you to take the stuff out?

2 A Yes, I did.

3 Q And did you tell the Grand Jury that it was
4 this fellow Chuck who hid some equipment somewhere in the
5 building and then locked it up so it couldn't be found and
6 put a sign on it, Galgan Realty?

7 A Yes, he did.

8 Q You told that to the Grand Jury?

9 A Yes.

10 Q Now, all the stuff that went out was brought
11 back after the sale?

12 A After the auctioneer.

13 Q As far as you know, it all came back, right?

14 A Yes.

15 Q And how many trips to bring it back?

16 A I don't touch. Private truck.

17 (Continued next page.)

18

19

20

21

22

23

24

25

TRANSCRIPT DATED
DECEMBER 8, 1976.

1 A L B E R T S T E I N E R, called as a witness having
10 2 been first duly sworn by the Clerk of the Court,
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MR. LEVIN-EPSTEIN:

6 Q Good morning, ladies and gentlemen. Good
7 morning, Mr. Steiner?

8 A Good morning.

9 Q For the record and so the jurors at this end
10 can hear you clearly, will you once again state your full
11 name?

12 A Albert Steiner.

13 Q Mr. Steiner, at this time, are you employed?

14 A No, sir, I'm retired.

15 Q How long have you been retired?

16 A Approximately three years.

17 Q Prior to the time that you entered retirement,
18 were you employed?

19 A I was.

20 Q What was your occupation, sir?

21 A I was in the fuel oil and oil burner business.

22 Q In the fuel oil and oil burner business, did you
23 have your own company or were you employed by someone else?

24 A No, I had my own company.

25 Q What was the name of that company?

Steiner-direct

1

11

2

A S & M Fuel Oil Corporation.

3

Q Could you tell the jury, please, what the

4

significance of the letters S & M was?

5

A The first letter of my name was Steinger and

6

the first letter of my partner's name which is Moseelesky.

7

Q Would you spell that for the reporter?

8

A M-O-S-E-E-L-E-S-K-Y.

9

Q Is that man Mr. Charles Moseelesky?

10

A That's right, sir.

11

Q What was the nature of your business at

12

S & M?

13

A What do you mean what was the nature?

14

Q I'll try and rephrase the question.

15

You said you were in business for yourselves.

16

Did you sell something or what did you do?

17

A Oh, yes. We sold fuel oil and we repaired

18

oil burners and sold oil burners and heating plants.

19

Q Did you have a place of business or an office

20

from which you worked?

21

A Yes, I did.

22

Q Could you describe the place of business that

23

you had?

24

A We had a place on Austin Boulevard and Island

25

Park. The property was approximately 100 x 250 feet deep with

Steiner-direct

12 a building 20 x 50 there too, on the property.

3 Q As part of your business and in connection
4 therewith, did you have any automobiles, trucks, motor
5 vehicles of any kind?

6 A Oh, yes, sure. I had five -- five vehicles.
7 Two oil trucks and two service trucks and a private car.

8 Q An oil truck, if I'm not mistaken, correct me
9 if I am, is that -- circle tank truck type thing, is that
10 right?

11 A That's right, tank truck.

12 Q That hold the liquid motor oil -- I'm sorry,
13 fuel oil.

14 A It is a tank truck, called a tank truck.

15 Q You said you had two service type trucks?

16 A Two service trucks.

17 Q What is a service truck as you use that phrase?

18 A We carry our tools and parts and equipment for
19 a particular job that we are doing. Have servicemen working
20 on the trucks.

21 Q Such as repairing an oil burner?

22 A That's right. Preparing oil burners and
23 whatnot.

24 Q Did you also have automobiles?

25 A When I say automobiles, I had my own car and my

Steiner-direct

13 2 partner had his car.

3 Q So they were private cars?

4 A Private cars, yes.

5 Q Did you have a facility or location or space,
6 rather, at S & M where you could park these motor vehicles,
7 the trucks and so on?

8 A Sure.

9 Q And was this -- could you describe that area?

10 A Like I said before, the total area of the
11 property was 100 x 250 feet deep. The building itself was
12 20 x 50 and the front of the property, and we had the whole
13 rear of the property, which was about 190 x 100 feet deep
14 that was vacant, to the rear.

15 Q That was all flat area?

16 A Yes.

17 Q I see. By the way, what was the address on
18 Austin Boulevard?

19 A 4390 Austin Boulevard.

20 Q Are you familiar with the general geography
21 around 4390 Austin Boulevard, in other words, around Island
22 Park?

23 A Oh, yes.

24 Q Are you familiar with the location of the Town
25 of Long Beach?

Steiner-direct

14

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24
25

A Yes, I am.

Q And are you familiar with the location of the
Town of Lido Beach?

A Yes, I am.

Q Could you tell the jury, please, as briefly
and as concisely as you can, with respect to where your place
of business was, on Island -- I beg your pardon, on Austin
Boulevard, where was Long Beach?

A You mean, in milage?

Q Well, let's start with milage.

A From Island Park -- the next town was Long Beach.
It was approximately from Island Park, my shop, to Park Street
in Long Beach, was about four miles. From Park Street in Long
Beach Road to Lido, was about four miles.

Q So, would it be fair to say then that it was
within five or six minutes drive, normal driving?

A Maybe a little better than that.

Q Ten minutes driving?

A Ten minutes.

Q Fair enough. How long were you in business at
S & M?

A We have been in business for about 28 years,
in S & M Fuel Oil.

(Continued next page)

HS/tk 1

Steiner - direct

2am1 2

Q When you retired, did Mr. Mozelasky retire also?

3

A Yes.

4

Q Does the business exist under a different name

5

now?

6

A Yes, we sold to Central Island Oil Corporation

7

and they still maintain the business under S and M Oil

8

Corporation -- They still maintain the name.

9

Q I see. Mr. Steiner, do you belong to any

10

fraternal organizations or clubs?

11

A Yes, I do.

12

Q What do you belong to?

13

A Volunteer firemen and a masonic lodge, Long

14

Beach, 1048.

15

Q I am sorry?

16

A Masons.

17

Q Is that a freemason?

18

A That's right.

19

Q And do you attend mason meetings periodically?

20

A Oh, yes.

21

Q How long have you been a mason?

22

A Little bit better than twenty years.

23

Q Is your partner -- former partner, Mr. Mozelasky,

24

a mason?

25

A Yes.

2

1

Steiner - direct

2

Q Did you attend meetings with Mr. Mozelasky?

3

A Beg your pardon?

4

Q Did you attend meetings with Mr. Mozelasky?

5

A Oh, yes.

6

Q Were you familiar with other lodge brothers?

7

A Oh, yes.

8

Q Mr. Steiner, do you know a man by the name of

9

Arnold Rubin?

10

A I do.

11

Q Do you see him here in this courtroom?

12

A Yes, I do.

13

Q Would you point him out for the record?

14

A The gentleman sitting at the end of the table

15

there (Indicating).

16

MR. LEVIN-EPSTEIN: Indicating the defendant

17

Rubin, your Honor.

18

Q Will you tell the jury, please, when you first

19

met Mr. Rubin approximately?

20

A I met Mr. Rubin in the lodge when he became a

21

mason. That was approximately 1970 -- approximately therein,

22

1970, 1969, 1971 -- somewhere in that area.

23

Q Did there come a time after he became a lodge

24

member in the Freemasons organization, when you got to know

25

Mr. Rubin?

3 1
2 A Yes.

3 Q Will you tell the jury what your best estimates
4 of how often you saw or met with Mr. Rubin during the time from
5 the first time you met him?

6 A When I was in the lodge, I was treasurer of the
7 lodge, and I attended meetings quite frequently and I met
8 Mr. Rubin quite frequently.

9 I just can't guess at the number of meetings.
10 It was quite frequent that I met him at the lodge.

11 Q You knew him to say hello to or better?

12 A No, I knew to say hello and give the time of
13 day. I knew him quite well from lodge affairs.

14 Q I see.

15 Directing your attention to December of 1972,
16 do you recall particularly a lodge meeting when you had a
17 conversation with the defendant, Arnold Rubin?

18 A I don't recall the particular lodge meeting,
19 but I did meet Mr. Rubin at the lodge building.

20 Q Could you tell the jury, to the best of your
21 recollection, what did he say to you in December of 1972 and
22 what did you say to him?

23 A He approached me and asked me if I had some
24 space available in my place of business to store a truck. I
25 said, "Yes, I have quite a bit of room over there."

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Steiner - direct

He said, "Would you mind if I spoke to a relation of mine, because he wants to store a truck at my place."

I said, "I have to talk to my partner and find out whether it would be all right."

He said, "Fine."

So he let it go and that was it.

Q That was the end of that conversation?

A That's right.

Q Did there come a time when you mentioned it to Mr. Mozelasky?

A Oh, yes.

Q Did Mr. Rubin specify to you who the relation was?

A He just said a relation.

Q He did not specify the relation?

A If my memory serves me correctly, I think he said a cousin.

Q Did there come a time after this initial overture by Mr. Rubin about the truck storage that you talked to him about it again?

A Yes. He stopped over the place a few days after that -- just stopped in to look around, I presume.

Q This was at S and M?

A At my place of business on Austin Boulevard.

Steiner - direct

Q Did you have a conversation with him then?

A It was a short-lived conversation, and he said, "You have plenty of room," and I said, "Yes, I spoke to Charlie and everything is all right. You can bring the truck in."

Q Did there come a time when you discussed the amount of rental fee you would charge?

A It was at that time.

Q How much did you agree upon?

A \$25 a month.

Q Were any further -- Did you have any further conversation during that time -- make any further arrangements?

A No arrangements, other than he would bring the truck down and that's it.

Q At that time did you know how long the truck would be there or not?

A He did mention the fact that it may be down there a couple of months.

Q What did you say to that?

A That would be all right, because the property was vacant. I have plenty of room. It didn't make any difference whether it was there two months or six months.

Q Was that amenable to Mr. Rubin?

A Beg your pardon?

2 Q Did Mr. Rubin agree to that, as well?

3 A Oh, sure.

4 Q Directing your attention to a period subsequent
5 to that, did there also come a time when the truck was
6 delivered?

7 A Yes.

8 Q Do you recall that day?

9 A No, I don't recall the specific date that the
10 truck was delivered.

11 Q Do you recall the activities and events of that
12 day?

13 A Approximately, yes.

14 Q To the best of your recollection, will you tell
15 the jury and the Court what happened on the day the truck
16 was delivered?

17 A When the truck came down, they just drove it
18 in the driveway, someone said, "Where do you want to put the
19 truck?"

20 I said, "Put it in the rear, alongside the
21 building that was my neighbor's."

22 The truck was put there. They locked the truck
23 up, brought the key into the shop and we put it up on a key
24 rack, because we had a key rack in the shop for customers'
25 houses that we took care of the oil when they go away, and we

Steiner - direct

put it on the key rack and left it there.

Someone else picked the driver up and they drove off.

Q Was Mr. Rubin present on that day?

A No.

Q You don't recall?

A Not to the best of my ability.

Q Very well.

After that day, did there come a time when you saw the driver again up to and including the present day?

A Yes.

Q When was the last time you saw the driver?

A Yesterday.

Q Where was that?

A In the witness room.

Q Would you describe the truck, please?

A It was a van type of body, yellow. I don't recall the manufacturer's name, whatever the truck was, and if I remember correctly, I think it was an open top with a canvas hanging over the top -- it was a yellow truck with Stafford across it. That's all I remember about the truck.

Q After all these people left, on the day the truck was delivered, I take it the truck was left in the spot where it was parked by the driver?

2 A Yes, it was.

3 Q Did there come a time thereafter when you got
4 your first payment or a payment for the rental?

5 A Yes, we did.

6 Q How were you paid, sir?

7 A By check.

8 Q I show you what has been marked as Government's
9 exhibit 23 for identification, and I ask you to examine that
10 document, if you will, and tell the jury if you recognize that
11 document?

12 (Document shown to witness.)

13 A Yes, I do.

14 Q What is it about that document you recognize?

15 A I wrote the name with reference to Arnold Rubin,
16 Cleveland Avenue.

17 Q What does the Cleveland Avenue residence mean to
18 you?

19 A Mr. Rubin's residence.

20 Q Did you know that from your association with him
21 at the lodge?

22 A No, I knew that from the association I had with
23 Mr. Rubin doing business with him, delivering oil to his house.

24 Q You delivered oil to Mr. Rubin's house?

25 A Right.

Q On Cleveland Avenue?

A Yes.

Q Was this check received by your or by S and M
in the regular course of S and M's business?

A Yes.

MR. LEVIN-EPSTEIN: Offered into evidence.

MR. TAIKEFF: No objection.

(Shown to Counsel.)

MR. SHERMAN: No objection.

THE COURT: Mark it.

THE CLERK: Government's exhibit 23, marked in
evidence.

Q Mr. Steiner, I am going to point some questions
out on this check and if you would just answer my questions:

Pardon my side, ladies and gentlemen.

Is this check written on an account of a
particular payor?

A Yes.

Q What is the name of the company that wrote the
check?

A Galvan Realty Corp.

Q What is the date of the check?

A September 8, 1972.

Q It is made out to the S and M Fuel Oil Corporation?

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A Yes.

Q Does there appear in the upper left-hand portion of this check a notation typed in?

A Yes.

Q What does it say?

A "Truck storage through April 31, 1971."

Q On the reverse side of this check, you said that you noted your endorsement stamp; is that correct?

A Yes.

Q Is that this blue stamp where I am pointing here (Indicating)?

A "For deposit only, S and M Fuel Oil Corporation."

Q Above that there is a pencilled handwritten notation. Is that what you referred to a moment ago?

A Arnold Rubin, Cleveland Avenue.

This was to let the bookkeeper know it was to be credited to Galgan Realty Corp. for the storage of the truck, not to Mr. Rubin's account.

Q In other words, the fuel oil account that Mr. Rubin had?

A That's right.

Q Do you know who wrote this on the check?

A Yes, I did.

MR. LEVIN-EPSTEIN: May I pass it among the jury?

Steiner - direct

THE COURT: Yes.

(Shown to jury.)

Q Following your receipt of that check, did there come a time in October of 1972 when you received another check such as that one?

A Yes, I did.

Q Then in November of 1972?

A Yes.

Q And then in December of 1972?

A Yes.

Q I show you three documents, which have been marked in sequence exhibits 24, 25 and 26, all for identification on behalf of the Government, and I ask you to take a look at them, if you would, and tell the jury if you recognize each and every one of those documents?

(Documents shown to witness.)

A Yes, I do.

(continued next page)

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3 Q What is there about each and every one of those
documents that you recognize?

4 A They're identical to the previous ones that
5 you just showed me, and it is my blue deposit stamp on the
6 back of each check, for deposit only S&M Fuel Oil Corporation,
7 and on one of these checks I have got down "truck rent."

8 Q I beg your pardon?

9 A On one of these I got "truck rent."

10 Q Is that your handwriting?

11 A That's my handwriting.

12 Q That applies to all three of the checks?

13 A That's right.

14 MR. LEVIN-EPSTEIN: Offered into evidence.

15 MR. TAIKEFF: No objection.

16 (Shown to counsel.)

17 MR. SHERMAN: No objection.

18 MR. LEVIN-EPSTEIN: Asked that it be marked?

19 THE COURT: Received.

20 THE CLERK: Government Exhibits 24, 25 and 26,
21 marked in evidence.

22 (So marked.)

23 Q In the upper lefthand corner of Government's
24 Exhibit 26 now in evidence, does there appear to be a
25 notation?

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A Yes.

Q What is that?

A "November truck storage."

Q And the date of the check is?

A "December 22nd, 1972."

Q That is all on the Galgan Realty Corp?

A That's right.

Q On Government's Exhibit 25 in evidence, is there
a notation in the upper lefthand corner?

A Yes.

Q What does that say?

A "Rental space, October 31st, 1972."

Q And that check is dated November 5th of 1972?

A November 5 of '72.

Q That is the check, by the way, where you have
the notation handwritten on the back "Truck rent"?

A That's right.

Q And the check is dated October 10th, 1972,
Government's Exhibit 24 in evidence, and does that a notation
in the upper lefthand corner?

A Yes.

Q What is it?

A "Rental September 30th, 1972."

(Document shown to jury.)

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2 Q After a passage of time, did there come a time
3 when the truck was removed from your property?

4 A Yes.

5 Q Do you recall the date?

6 A I recall the day, but I don't recall the date.

7 Q I am not asking you for the day of the month.

8 A I recall the incident.

9 Q Could you describe what happened on that day?

10 A On that day a car pulled up to my place, parked
11 in the back, and he told me he is going to take the truck out.

12 Q Do you know who that man was who told you this?

13 A No, I don't.

14 Q Go on.

15 A I went inside and got the key, gave him the
16 key, he tried -- somebody else tried to start the truck that
17 he had in the car with him, tried to start the truck and he
18 couldn't get the thing started. He asked me if there was a
19 mechanic around. I told him that I don't know if there was
20 any around this area. I said, "You could try down Austin
21 Boulevard."

22 He apparently went down Austin Boulevard --

23 MR. TAIKEFF: Objection.

24 Q After this conversation, what did you observe?

25 A After this conversation?

Steiner-direct

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Q Yes.

A He went down to the Boulevard and came back with a mechanic who had a little pickup truck. He apparently started the truck, drove the truck out, and that's the last I have seen of the truck.

Q Is that the last experience that you have had with this truck?

A Yes.

Q Do you know a man by the name of George Moss?

A No.

Q I direct your attention to the man sitting at the end of the table in the gray suit.

Do you know that man?

A No.

Q Have you ever seen him in your life?

A I don't believe I have.

MR. LEVIN-EPSTEIN: No further questions.

MR. TAIKEFF: No questions, your Honor.

CROSS-EXAMINATION

BY MR. BROOKS:

Q You said S&M Fuel Oil was on Austin Boulevard; is that correct?

A Correct.

Q What kind of street is Austin Boulevard?

Did he come to get the truck?

A I don't recall Mr. Rubin being there.

MR. BROOKS: No further questions.

MR. LEVIN-EPSTEIN: I have no questions.

THE COURT: All right, Mr. Mozelasky, you may step down.

THE WITNESS: Thank you.

MR. LEVIN-EPSTEIN: Mr. Kaye is getting the next witness, your Honor.

Thank you, Mr. Mozelasky.

THE WITNESS: Thank you.

(The witness was excused.)

MR. LEVIN-EPSTEIN: The Government calls John Hilbrandt.

J O H N H I L B R A N D T, called as a witness, being first duly sworn by the Clerk of the Court, testified as follows:

DIRECT EXAMINATION

BY MR. LEVIN-EPSTEIN:

Q Mr. Hilbrandt, are you employed?

A Self employed.

Q What is your occupation?

A Auto body repair.

Q You have to speak up just a little so that the

Hilbrandt-direct

last jurors over here at the end of the jury box can hear you.

What was it again?

A Auto body repair.

Q Does the auto body repair business that you are involved in have a name?

A I go under my own name, John Hilbrandt Auto Body.

Q How long have you been in business?

A Approximately seven years.

Q What kind of repairs do you do, generally speaking?

A Repairs, painting, collision work.

Q On motor vehicles?

A Yes.

Q Automobiles and other motor vehicles?

A And trucks.

Q And trucks.

Where is Hilbrandt Auto Body located?

A 191 Whitehall Street, Lynbrook.

Q Is that in the vicinity of Island Park?

A Yes.

Q Is it in the vicinity of Long Beach?

A Yes.

Q Lido Beach?

Hilbrandt-direct

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A Yes.

Q Austin Boulevard?

A Yes.

Q Directing your attention, sir, to the beginning of March 1973, did there come a time at that time when you received or had a particular telephone conversation?

A Yes.

Q Could you describe that telephone conversation to the Court and the jury, please?

A It was a call about giving an estimate on a truck. I was told the location of the truck, what had to be done, and I was told to get back to this person.

Q Did the person identify themselves on the phone?

A Yes.

Q What is the name?

A Mr. --

Q What was the name that was given to you?

A Mr. Moss.

Q Did they give you a first name?

A No. I don't --

Q Did you make any notation of the telephone call and the information that was given to you?

A Yes.

Q Did you make a notation on a piece of paper?

Hilbrandt-direct

A Yes.

Q I show you what has been marked as Government's Exhibit 76 for identification. I ask you if you recognize this document?

A Yes. That's my handwriting.

Q Is this the document -- is this the piece of paper that we spoke about a moment ago?

A Yes.

MR. LEVIN-EPSTEIN: I offer it in evidence.

MR. TAIKEFF: No objectio.

MR. SHERMAN: No objection.

MR. LEVIN-EPSTEIN: I offer it in evidence,
Your Honor.

THE CLERK: Government Exhibit 76, slip of paper, notation P&A, marked in evidence.

(So marked.)

MR. LEVIN-EPSTEIN: Pardon me, ladies and gentlemen.

Q Mr. Hilbrandt, I'm going to direct your attention to certain handwritten notations on Government Exhibit 76 now marked in evidence, and I'm going to ask you as we move along if you will explain to the jury what the significance of each of these notations is and how it came to be placed on this piece of paper. Okay?

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A Yes. Right.

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Q First of all, the first line, what does it say?

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A P&A Auto Service. That's the name of the gas

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station.

6

Q Where did you get the name of that gas station,

7

P&A?

8

A From Mr. Moss.

9

Q The man that called you on the phone?

10

A Yes.

11

Q Beneath that does there appear an address?

12

A Yes. The address is 4501 Austin Boulevard.

13

Q Where did you get that address?

14

A Telephone.

15

Q Again Mr. Moss?

16

A Yes.

17

Q Beneath that, what?

18

A Chevron Gas Station.

19

Q What does this mean to you?

20

A That's where the truck was.

21

Q Beneath that there appears to be the word,

22

"Jeff."

23

A That's the person I was supposed to see.

24

Q At P&A.

25

A At P&A, they tell me where the truck was.

Hilbrandt-direct

Q Okay. Now, would you tell the jury, please, specifically what instructions if any you received over the telephone about this trip you were going to make to P&A and meet with this man Jeff? What did this man tell you?

A Just to go and look at the truck. He wanted it yellow to blue, '67 GMC to see Jeff, and call him back and tell him how much it was going to be.

Q You say yellow to blue. Is there a yellow to blue on this piece of paper?

A Yes.

Q What does yellow to blue mean?

A It means the truck is yellow. He wants it blue.

Q And beneath that there is a notation, is there not, where I am pointing?

A '67 GMC.

Q What does that mean?

A That's the year and make of the truck.

Q And next to that in pencil there is an asterisk, is there not, and another notation, 350.

A That was after I looked at the truck.

Q What does that mean?

A The price of the paint job would be \$350.

Q Beneath that there is a notation.

1 A Mr. Moss and the number.

2 Q What is the phone number?

3 A 212 492-3400.

4 Q By the way, this piece of paper apparently says
5 on the back of it, Island Garden Service Station. How come
6 it says that if you have a place called Hilbrandt Auto Body?

7 A It was a scrap pad that I had gotten somewhere
8 and I used them for scrap.

9 Q Now, after you went to see this truck at P&A
10 Auto and after you estimated that it would cost \$350 for you
11 to paint it and repair it as requested, did there come a
12 time when you communicated this estimate to this telephone
13 number on that slip of paper?

14 A Probably the same day.

15 Q Do you have an independent recollection of
16 speaking with Mr. Moss?

17 A Yes.

18 Q Do you recall what you told him?

19 A I told him it would cost \$350 for the repairs
20 and painting.

21 Q What did he tell you?

22 A He said he would get back to me.

23 Q Did there come a time after that telephone
24 call where you responded to the person who had called you when
25

Hilbrandt-direct

you were again contacted with reference to this paint job and repair job?

A Right.

Q How were you contacted?

A By phone.

Q And do you know who you spoke to on the telephone at that time?

A Mr. Moss.

Q Same person?

A Yes.

Q What did he say and what did you say then?

A He said he wanted to have the truck painted and he would send me a purchase order.

Q Did there come a time after you had this conversation when you received such a purchase order?

A Yes. Right.

Q At my request have you looked through your files to come up with whatever documents exist with respect to this job?

A Yes.

Q I show you what has been marked as Government Exhibit 71 for identification. I ask you if you recognize this document as having come from your files?

A Yes.

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Q I'm sorry?

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A Yes.

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Q This is a photostatic copy?

5

A This is. There was an original. And I kept

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this copy.

7

Q In other words, you made this copy?

8

A No.

9

Q I'm sorry. You answer the question.

10

A There was two copies. Two sent to me. The

11

original and this copy.

12

Q What did you do with the original?

13

A I signed the original and sent it back.

14

Q You signed on the bottom where it says,

15

"Acknowledged."

16

A Right.

17

MR. LEVIN-EPSTEIN: I offer it in evidence.

18

MR. TAIKEFF: No objection.

19

MR. SHERMAN: No objection.

20

THE CLERK: Government Exhibit --

21

MR. LEVIN-EPSTEIN: 71.

22

With the Court's permission.

23

THE CLERK: (continuing) Government 71 marked

24

in evidence.

25

(So marked.)

11 1
2 MR. LEVIN-EDSTEIN: Ladies and gentlemen, this
3 is a document which I will pass among you in a moment.

4 It is entitled, typewritten, purchase order
5 number 382, dated March 19, 1973, addressed to
6 Hilbrandt Auto Body --

7 At your address.

8 Attention John Hilbrandt.

9 And it says:

10 Quantity 1.

11 Description

12 And then price as follows:

13 1 5 Ton GMC truck with transportation body
14 (carvas covered) and 4000 pound Anthony left gate to
15 be completely repainted and have all body work done,
16 specifically as follows:

17 Basic Repairs -

18 (A) Front fender protective grille on one
19 side slightly damaged.

20 (B) Passengers door dented. Window to be made
21 operable. If glass is broken or cracked, same to be
22 replaced.

23 (C) Actual metal body exterior to be repaired
24 where damaged by side opening door.

25 (D) Inside of body to haveplywood replaced as

needed.

(E) Any other dents not mentioned to be repaired. Thereafter, complete truck, present color yellow to be repainted "American Flag" blue. This includes tail gate, interior of cab (where yellow), 5 wheels and any other place where color yellow was previous.

And then it says in capital letters - NOTE: IMPORTANT- previous owners name shall not show through new paint, even when viewed at an angle. We understand that only grinding-sanding will eliminate this. However, final finish shall be smooth.

Price above complete, as quoted \$350 work to be Al-first in every way. Basic paint job to be guaranteed for 5 years against chipped, peeling or bleaching, as normal outdoor exposure will cause. Also, please quote us on having the 2 doors only lettered as follows:

And it says: Our Logo American Identification Products, Inc. 143-145 58 Street, Brooklyn, New York 11220. Telephone 212-492-3400.

All lettering white logo stars red. Complete time- 1 week from date of this order. Delivered to our plant.

Hilbrandt-direct

American Identification Products, Inc.

Signed, Nat Moss.

Beneath, it says, Terms: Net 30 and the
Resale number.

And then beneath that there is the word,
acknowledged and the colon with a blank space and
the word date with a colon and the blank space.

(Continued next page)

Hilbrandt-direct

BY MR. LEVIN-EPSTEIN:

Q And now, Mr. Hilbrandt, directing your attention to the lower right quarter of Government's 71 in evidence, there seems to be a hand-written notation there. What do you -- do you recognize that?

A Yes.

Q What does that say?

A \$330.

Q What does that mean, \$330?

A That was -- when the truck was completed, I called them and I told them I couldn't deliver it. And he said he would send a man down, but we would have to do something about the price. So I knocked off \$20.

Q So the final and ultimate price that you received for the work that you did was \$330?

A Right.

Q After the repair work and the painting was done, did there come a time when a man came to pick up the truck?

A Yes.

Q What happened on that date? Could you describe the events of that day as related to this transaction?

A The driver came. He looked at the truck, gave me the check and drove away.

Hilbrandt-direct

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Q Now, when the driver came, did you get a look at him?

A Yes.

Q After that day back in 1973 has there ever come a time up to and including today that you saw that driver?

A Yes.

Q When was that?

A Yesterday.

Q Where was that?

A In the witness room.

Q Right here in Court?

A Yes.

Q Now, on the day that the driver came to pick up the truck, did you prepare a bill of some kind?

A Yes.

Q I show you what has been marked as Government Exhibit 72 for identification. I ask you if you recognize that document?

A That's my bill.

Q Is that the bill we just spoke about?

A Yes.

Q You recognize it as being prepared by yourself?

A Yes.

MR. LEVIN-EPSTEIN: I offer it into evidence.

Hilbrandt-direct

MR. TAIKEFF: No objection.

MR. SHERMAN: No objection.

THE CLERK: Government Exhibit 72 marked in evidence.

(So marked.)

Q This bill makes reference to the purchase order that we just read to the jury?

A Yes. The purchase order is on there.

Q That is number 382?

A Yes.

Q Is there a reference on that bill to a check or a means by which you were paid for your work?

A The check number is on it.

Q What check number is there?

A 862.

Q I show you Government Exhibit 73 for identification and I ask you if you recognize this check? Look at it front and back, if you wish.

A Yes. This is my stamp on the back.

Q You recognize it as being placed there by you or someone in your employ?

A Me.

Q By you.

This check was received in the ordinary course

Hilbrandt-direct

of your business?

A Yes.

MR. LEVIN-EPSTEIN: I offer it in evidence.

MR. TAIKEFF: No objection.

MR. SHERMAN: No objection.

MR. LEVIN-EPSTEIN: I ask that it be marked.

THE CLERK: Government Exhibit 73 marked in evidence.

(So marked.)

MR. LEVIN-EPSTEIN: Ladies and gentlemen, Government Exhibit 72 in evidence is a check written on the account of the American Identification Products, Inc., check number 862, dated April 6, 1973, and it is made out to the order of Hilbrandt Autobody for \$330, and signed, as per the stipulation we read before by George Moss, in the name Floyd Moss.

On the reverse side we have a notation:

Pay to the order of the Chemical Bank.

Q That's your deposit stamp, is it not, sir?

A Yes.

MR. LEVIN-EPSTEIN: And also the handwritten notation:

In full payment of truck painting as per order -- or PO it says -- number 382. No other moneys due or

GR/ad
4AM

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DeSimone-direct

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MR. LEVIN EPSTEIN: May it please the court,
Ladies and Gentlemen, Government's 30 in evidence is a
document entitled, original invoice, on the letterhead
of the Stafford Manufacturing Company, Inc. It is
dated September 1st, 1972. Addressed to Surless
Ship Repair and it speaks of a fourth partial.

A What does fourth partial mean, sir?

A That was the last payment. I assume there were
four payments on that job order.

Q In other words, this was a bill?

A That was a bill, right. It must have been the
final payment.

Q Do you know the name Stafford Manufacturing,
sir?

A Yes, sir.

Q In what respect, I beg your padon. What re-
lationship did Stafford Manufacturing bear to Surless when you
worked there?

A They were a sub-contractor.

Q In other words, you were a customer of Stafford's?

A No, Stafford was our -- we were a customer of
Stafford, that is correct.

Q They did work for you and you paid them for it?

A That is correct.

2 1
2 Q Now, is this document -- I see the notation
3 here, the word, paid. Would that indicate that this document
4 was a bill to Surless from Stafford?

5 A Yes.

6 Q And what is the amount of the bill?

7 A \$1,000.

8 Q And what is that \$1,000 paid by Surless to
9 Stafford?

10 A Yes, sir.

11 Q Was that payment after September 1st, 1972?

12 A It's marked September 1st, 1972. And the hand-
13 writing is very familiar and it was approved. Paid September
14 1, 1972.

15 Q Would that have been for work done prior to
16 September 1st of 1972?

17 A Yes.

18 Q By the Stafford Manufacturing Company?

19 A Especially the fourth partial.

20 Q Especially if it's the fourth partial?

21 A Yes.

22 Q I show you Government Exhibit 31 for identifica-
23 tion and I ask you if you recollect that photostatic copy?

24 A Yes.

25 Q How do you recognize that photostatic copy?

What is there about it that you recognize?

A The name on top of it, the number of the check corresponds with the information on the invoice, the signature of the person who signed it.

Q You know that signature?

A Yes.

Q Was this document -- let me rephrase that question. Do you know what happened to the original of this document?

A The documents were transferred down to Florida.

MR. LEVIN-EPSTEIN: Your Honor, I will represent to the court that best efforts have been made to obtain the original of this document.

MR. TAIKEFF: Your Honor, there is no objection under the best evidence rule.

THE COURT: All right.

MR. LEVIN-EPSTEIN: Offer it in evidence.

MR. TAIKEFF: No objection.

MR. SHERMAN: No objection.

MR. LEVIN-EPSTEIN: That it be marked.

THE COURT: It will be received.

THE CLERK: Government's Exhibit 31 marked in evidence.

(So marked.)

Q Government's Exhibit 31 in evidence, Mr. DeSimone, is a check of the Surless Ship Repair Corporation, is it not?

A Yes.

Q It is made out in the amount of \$1,000?

A Yes.

Q Dated September 1st, 1972, to the order of Stafford Manufacturing Company, Inc. I take it that you said you recognized the authorized signature?

A Yes.

MR. LEVIN-EPSTEIN: May it please the court, the reverse side of this check is endorsed apparently, Stafford, George Moss, President, and it is indicated here cashed, H and S Check Cashing Service, September 1st, 1972.

Q I show you Government Exhibit 32 for identification, Mr. DeSimone and I ask if you recognize this document?

A Yes.

Q Do you recognize that? You have to speak up so the reporter --

A Yes.

Q Are documents such as that kept, prepared and maintained in the ordinary course of business of Surless when you were there?

1
2 A Yes, sir.

3 Q The same as the other one?

4 A Almost identical.

5 Q Was this the one -- I beg your pardon. Was this
6 document kept prepared and maintained in the ordinary course
7 of business?

8 A Yes.

9 Q What?

10 A This is another invoice for \$1500.

11 Q This is a bill to Surless?

12 A Bill to Surless.

13 MR. LEVIN-EPSTEIN: Offer it in evidence.

14 MR. TAIKEFF: No objection.

15 MR. SHERMAN: No objection.

16 THE COURT: It will be received.

17 THE CLERK: Government's Exhibit 32 marked in
18 evidence.

19 (So marked.)

20 MR. LEVIN-EPSTEIN: Ladies and Gentlemen, Gov-
21 ernment's 32 in evidence is another bill from Stafford
22 to Surless. This bill is dated October 9, 1972. For
23 the amount of \$1500, with a notation, Final Amount Due,
24 work completed and the handwritten notation, paid
25 10,9, with a check number.

Q Is that correct, sir?

A That's correct.

Q That check number would be a Surless check that was cut and sent to Stafford in payment, right?

A That is correct.

Q I show you Government Exhibit 33 for identification and I ask you if you recognize this check? Or rather, this photostatic copy of a check?

A This is a check in payment of the corresponding invoice.

Q In other words, Government's Exhibit 33 for identification paid Government's 32 in evidence?

A Yes.

MR. LEVIN-EPSTEIN: Offer it in evidence, your Honor.

MR. SHERMAN: No objection.

MR. TAIKEFF: The number? No objection.

THE COURT: Received.

THE CLERK: Government's Exhibit 33 marked in evidence.

(So marked.)

MR. LEVIN-EPSTEIN: Government's 33 in evidence as described by Mr. DeSimone, Ladies and Gentlemen, is a Surless check marked, Final Payment, to Stafford

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MR. LEVIN-epstein; Objection.

THE COURT: I'll allow it. Don't tell us whose signature. Do you find a signature on there?

THE WITNESS: Yes.

THE COURT: Do you recognize the signature?

THE WITNESS: I don't recognize the signature, no. Because I don't know the gentleman.

Q Is it a fact that the vehicle -- the ships in question were identified as LST 1160 and LST 1162?

A Yes. That is correct.

Q Can you tell us whether or not LST 1160 was completed after LST 1162?

A Yes. 1162 was completed first.

Q Can you give us the approximate date when 1162 was completed?

A Between the time of -- the first of September to the first of October.

Q So --

A The month of September. Sometime in the month of September.

Q Is it fair to say that both ships were completed that is to say, the installations were completed after September 1, 1972?

A Yes.

Knitzer-direct

once again and use that to adjust my total from my total appraisal, if I figured a machine at 500 and saw it again a second time, I may figure it to be worth 800.

Q You take a check and then a double check?

A That is correct.

Q Do you make a notation to a particular lot or item that you have seen as to its value on that catalogue?

A Yes, but this -- the notation that I have on this would not represent -- let me put it this way: The totals on these pages would not represent the report that I filed with the Court, because I have added more to it after my second round.

Q In other words, the figures that appear on this sheet are your first impression of value?

A Correct.

Q This would be slightly less you figure than the ultimate figure --

A I know it is. As a rule of thumb, we make it.

Q You mentioned a report that you make to the Court. Do you have an obligation to make a report to the Court as to the value of the property of the bankrupt estate?

A Yes. I have a copy of the appraisal which I sent to Judge Price. I think I hand-delivered it because

look through it if you like.

(Pause.)

Q A Clark forklift, if that will assist you.

Do you see any reference to a Clark forklift truck?

A There is no reference to a forklift and I have no recollection of having seen either a Clark or any other kind of forklift.

Q referring to your list once again, sir, did there come a time when you appraised a number of bench master bench presses and saw them at that location? I specifically direct your attention, sir, to lot number 22 to begin with.

A 22 is a bench master power press, 23 is a bench master power press, 24 is a bench master power press.

Q I also direct your attention to lot number 252, further along in your appraisal.

What is that?

A Bench master power press.

Q Based upon your reference to this catalogue, your appraisal, did you look and see if there were any other bench master bench presses other than the four that you have already described?

MR. TAIKEFF: While the witness is looking, may I indicate to the Court, I would like to come to the

1
2 your Honor, may I have two documents marked for
3 identification?

4 THE COURT: Yes.

5 THE CLERK: Defendant Exhibit Q, a document,
6 marked for identification.

7 Defendant's Exhibit R, a document, marked for
8 identification.

9 (So marked.)

10 THE WITNESS: According to my count of the
11 catalog, there were 32 various power presses in this
12 catalog.

13 Q Did you find every item which is accounted for
14 by number and description in the catalog in the factory?

15 A I found every lot that was on the sheets.

16 Q Did you find anything that was not lotted?

17 A No, sir.

18
19 (Continued next page)
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Nitzer-redirect

REDIRECT EXAMINATION

BY MR. LEVIN-EPSTEIN:

Q Mr. Nitzer, how many of the 32 power presses were Benchmaster power presses, sir?

A Here we go again. .

Q Would it be fair to say that the only Benchmaster power presses listed are the ones you mentioned before to say and save sometime?

A Correct.

THE COURT: Four.

Q When you list power presses, you are speaking, to use Mr. Taikeff's expression, generically, anything that has power and is a press, right?

A That's correct.

Q Okay. that includes drill presses?

A No. We list the drill press separately.

Q Includes a bench press?

A a bench press would be included.

Q A router, perhaps?

A No.

Q What were the things that Mr. Taikeff showed you? May I see those exhibits, please? What are these things?

THE COURT: R or Q, or both?

Q I'm sorry. Exhibit Q and R for the defense.

Let's first talk about Q. What's that?

A Q, is a combination drill press and router.

Q Benchmaster -- Benchmaster power press?

MR. TAIKEFF: Objection. I think the answer was, "drill press and router."

MR. LEVIN-EPSTEIN: Oh, okay. I'll withdraw the question.

Q This isn't what you are talking about then when you speak of a Benchmaster power --

A No, sir.

Q Okay. How about R; is this a Benchmaster power press?

A I don't know whether it is a Benchmaster or a Niagra, or Z& H or any of the other makes that are listed in here. It is a -- generically either a power press--

Q Just like a Chevrolet is generically a car?

A That's correct.

Q And a Ford?

A And in this catalog you will find "PP" for "power presses", where there was no name plate and we -- the auctioneer could not identify it by name.

Q When you could identify it by name, you did identify it by name?

A Always.

Nitzer-redirect

Q When you saw a Benchmaster power press you called it a Benchmaster power press; is that right?

A I didn't, but it's on the sheet.

MR. LEVIN-EPSTEIN: No further questions.

RE CROSS-EXAMINATION

BY MR. TAIKEFF:

Q Were there any power presses that you did not identify by name at all?

A There are power presses on this catalog which are not identified by name.

Q Could you say whether they are not benchmaster power presses, yes or no?

A At this point in time, I could not answer that question.

MR. TAIKEFF: I have no further questions.

MR. LEVIN-EPSTEIN: No questions.

THE COURT: You may step down.

MR. LEVIN-EPSTEIN: I'll call the next witness, your Honor.

THE WITNESS: Am I excused, your Honor?

THE COURT: You are.

MR. LEVIN-EPSTEIN: Yes, your Honor.

THE WITNESS: Thank you.

THE COURT: Thank you very much

THE WITNESS: Thank you.

1 Fein-direct

2 (Shown to counsel)

3 MR. SHERMAN: No objection.

4 THE CLERK: Government's Exhibit 44 marked
5 in evidence.

6 (So marked)

7 *** Q Mr. Fein, what is Government's Exhibit 44?
8 What is that document?

9 A It's an appraisal that my firm made of
10 Stafford Manufacturing Company.

11 Q Do you have an independent recollection of that
12 appraisal, sir?

13 A I remember it, yes.

14 Q Either from your independent recollection or
15 from a reference to your files, can you tell us on what
16 date that appraisal was made?

17 A I don't remember the exact date.

18 Q Can you make an estimate? It is not
19 critical.

20 A Sometime in '69, I would assume; I'm not sure.

21 Q And on that appraisal list?

22 A Yes.

23 Q What is listed on that list?

24 A Everything on the premises that was supposed
25 to be appraised, that the finance company was going to use

Fein-direct

as a chattel.

Q I see.

THE COURT: For security for a loan?

THE WITNESS: As security, you're right, your Honor.

Q Now I direct your attention, sir, to page 6 of that list, Government's Exhibit 44. Would you turn to page 6.

A I have it, yes, sir.

Q I direct your attention to the notation where it says "7 Benchmaster Power Presses."

Do you see that notation?

A Yes, sir.

Q What is that notation mean?

A Where I have a "3" next to it, or where I have a "7" there?

Q Let me see.

A Please check that, so I can answer it properly. I have a "7" and a number "3," there

Q Well, first of all let's start with the phrase "Benchmaster Power Presses." What does that mean?

A It's a little power press that punches and sits on a little table.

Q The listing on this list means that there

Fein-direct

were--

A Seven at the premises when my men appraised the location.

Q Beneath the word "Benchmark Power Presses," there appears the--

A The serial numbers.

Q Are there serial numbers listed?

A "S.N." designates serial number.

Q And there are seven, are there not?

A There are.

Q Would it be fair to say then, that for each of the seven Benchmark power presses that your men saw on the premises that day, at the time of this appraisal, a serial number was recorded for each one?

A That's true.

MR. TAIKEFF: Objection. It's argumentative and it's repetitive.

THE COURT: I'll allow it.

Q Very slowly, so the court and the jury and even the reporter can get them, would you read each of the seven serial numbers into the record.

A 3998, 39903, 08899, 39901, 36315, 39902, 39900.

Q That's the seven serial numbers for the

Fein-direct

professional activities where you are told of other locations to go, as mentioned before?

A That's true.

Q In this case, the bankruptcy of the Stafford Manufacturing Company, did there come a time when you were told by anyone as to other locations where there was property to be tagged or lotted?

A Yes.

Q I show you Government's Exhibit 46 for identification and I ask if you recognize that letter.

A I know this letter, yes.

Q Was that a letter taken from your files at my request?

A Yes, it was.

MR. LEVIN-EPSTEIN: Offered into evidence.

(Shown to counsel)

MR. SHERMAN: No objection.

MR. LEVIN-EPSTEIN: Offered into evidence.

THE CLERK: Government's Exhibit 46 marked in evidence.

(So marked)

Q Government's Exhibit 46 is a letter of which you received a copy, is that correct?

A That's true.

Fein-direct

Q It's a letter from Mr. Irving Schneider,
attorney for the trustee?

A That's true.

Q And it's directed to whom, sir?

A To William J. Henry.

Q According to your knowledge of this case,
do you know who he was, William J. Henry?

A I know of William J. Henry, I don't recall
what his position was in that matter. I know William J.
Henry very well.

Q But you know him through unrelated matters?

A That's correct.

Q This letter is dated August 23, 1972, and
it says "Regarding Stafford Manufacturing Company.
From the attorney for Mr. Goldhaber, the trustee, Mr.
Steiner."

It reads as follows:

"Dear Mr. Henry:

"In a summary of the assets and liabilities
dated August 6, 1970, signed by George Moss as
president of the bank" -- I assume that should
be 'bankrupt, he stated that the assets of the firm
were located at its main office and factory,
145~~5~~8 th Street, Brooklyn, New York, and in the

A 122

Fein-direct

following locations."

I will merely list the cities. The jury may read the rest.

Philadelphia, Baltimore, Brooklyn -- a number of addresses in Brooklyn.

Is that correct?

A Correct.

Q Do you see anywhere in that letter a notation to an address in Long Beach (shown to witness)?

A Not in this letter.

Q Did you ever receive a letter telling you about a location in Long Beach?

A Not to my recollection.

Q Did you receive any communication as to a location in Long Beach where there was property of the Stafford Manufacturing Company being stored or kept or whatever?

A I would have to say, no.

Q I show you Government's Exhibit 47 for identification and I ask you if you recognize this letter.

A Sure I do.

Q Did that letter come from your files as well?

A Yes.

Q At my request?

Fine -- direct

A On the direction sheet.

Q Where is that?

A I don't have that here with me.

Q Okay.

A It would have his name and address. That's
about all.

Q What about lot 23?

A 23 was another Benchmaster power press.

Q What did you get for that one?

A \$475.

Q Who was the buyer?

A Same buyer, American.

Q How about lot number 24?

A Benchmaster power press.

Q What did you get for that?

A Four seventy-five.

Q Who bought it?

A American.

Q What about lot number 25?

A Benchmaster power press.

Q How much?

A \$300.

Q Who bought it?

A American.

Fine - direct

Q Would you take a moment, please, to look through every one of those lots and tell me other than lots 22, 23, 24 and 252 whether you see any other Benchmaster power presses?

A No. They are not on my schedule.

Q Have you had occasion before just now to look in my office?

A I checked it with the appraisal I made in '69 against what my men found on the premises when they went in to tag up.

Q Not there?

A We made a notation with the shortage of missing equipment was.

Q Is that the significance of the number three next to the '69 reference to Benchmaster power press?

A That's true.

Q Now --

THE COURT: Wait a minute. I don't know if I understand.

Do you mean to say you have something checked off against your '69 appraisal?

THE WITNESS: When I appraised the premises for the security agreement for United Credit Corporation, it was done 1969.

THE COURT: You had seven Bench --

A 125

TRANSCRIPT DATED
DECEMBER 9, 1976.

Garten-direct

1
2 Products on September 7, 1972?

3 A No.

4 Q Did you buy any cars for American Identification
5 in 1972?

6 A No.

7 Q At that auction?

8 A No.

9 Q Did you buy a Clark fork lift truck?

10 A I was asked that question. I don't see it on
11 the list of the equipment that was sold in lots.

12 Q Who asked you that question?

13 A The F.B.I. asked me.

14 Q I show you Government's Exhibit 7 in evidence,
15 and I ask you to take a look at the machine depicted in that
16 photograph. On September 7th of 1972, did you or anybody
17 in your presence buy anything even resembling such a thing
18 as that, at that sale?

19 A I don't recall seeing this at the sale.

20 Q Okay. Who is the president of AIP?

21 A The president of AIP is Floyd Everett Moss.

22 Q Who is that?

23 A It is the son of George S. Moss.

24 Q Do you know who the vice-president is?

25 A It is Brett Moss Geller. She was married

Parr-direct

A Yes.

Q I direct your attention to your file, sir, and I ask you, can you tell whether or not during the course of your association is reflected in this file, whether American Identification Products, there has ever come a time when that company insured through you a 1969 Chevrolet station wagon?

A A 1969 Chevrolet was added January 11th of 1973.

Q Does your file reflect a motor vehicle identification number for that automobile?

A Yes.

Q Would you read it slowly for the record?

A 1344698313953.

Q Did there come a time after January the 11th of 1973, when the insurance policy on that car was terminated by AIP?

A Yes, the vehicle was eliminated on March 22, 1976.

Q Beginning of this year?

A Correct.

Q But between January of '73 and March of '76, was it continuously owned and insured by American Identification Products, at least as far as you can tell from your records?

A From our records, I can tell it was continuously insured.

2 in 334?

3 A Yes.

4 Q Eight power presses, which were sold with no
5 designation, co-rect?

6 A That is correct.

7 Q Now, 253 and 271 only say press, right?

8 A 271? 271 just says press, and 250 what?

9 Q 3.

10 A Just says press.

11 MR. LEVIN-EPSTEIN: No.

12 Q Would you concede that they might have been
13 power presses?

14 A I won't concede to that, no. I doubt it.

15 Q True or false, lot number 70 --

16 A True or false?

17 Q A chem cut spray rinse unit sold for \$4,250,
18 true or false, it was there in 1969 and you missed it?

19 A I'd have to check my appraisal sheets.

20 Q Go right ahead. I can tell you, sir, that it
21 is not on your 1969 appraisal list. I'll concede that.

22 A The question?

23 (Continued on next page.)

24

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2 Q Why can't that be a power press?

3 A It could be.

4 MR. LEVIN-EPSTEIN: Objection, argumentative.

5 MR. TAIKEFF: The answer was --

6 MR. LEVIN-EPSTEIN: The question and the answer
7 were objected to, and I would like a ruling before you
8 put an answer in my witness' mouth.

9 MR. TAIKEFF: The witness answered. I heard
10 it.

11 THE COURT: I will allow it.

12 Q Did you say "could be," yes or no?

13 A Could be.

14 Q How about number 271, could that have been a
15 power press also? Sold with two other power presses, although
16 it only says "press."

17 A Yes.

18 Q Yes?

19 A Yes.

20 Q So then there might have been as many as 10
21 unidentified power presses sold on September 7th, 1972; is that
22 correct?

23 A 10 items I listed as presses that possibly could
24 have been power presses?

25 Q No, 10 items listed as "PP" or "press," which

1
2 could have been 10 power presses, unidentified by name or
3 manufacturer or serial number, yes or no?

4 A Yes, could be.

5 Q If someone described to you a power press as
6 being this high -- and I am holding my hands roughly five feet
7 off the ground -- could you give us the minimum weight?

8 A No, I couldn't -- I could not.

9 Q Could it weigh only a 150 pounds?

10 A I don't know.

11 Q Is there any such thing as a bench master that
12 stands on a pedestal, rather than on a flat surface like a
13 table or something like that?

14 A A bench master is the name of the manufacturer --
15 Benchmaster is the name of the manufacturer.

16 Q It doesn't mean because it is a Benchmaster that
17 it necessarily sits on a table?

18 A Possibly not. They could put it on the floor
19 too.

20 Q If they put it on the floor, it has a pedestal?

21 A No, it could sit on the floor.

22 Q I know it can sit on the floor, but anything
23 other than a midget would not be able to --

24 MR. LEVIN-EPSTEIN: Objection, I do not think
25 the jury nor I are interested in the height of people

THE WITNESS: Yes.

THE COURT: Is there anything that is not?

THE WITNESS: Could be.

THE COURT: Just take a look at them?

(Shown to witness.)

THE WITNESS: He had this type of equipment
on the premises.

MR. LEVIN-EPSTEIN: I will withdraw the objec-
tion. I will stipulate it into evidence. Let it be
marked.

THE COURT: W through W-13 in evidence.

You can ask him all about it.

MR. TAIKEFF: Thank you, very much.

May they be demarked temporarily?

MR. LEVIN-EPSTEIN: I will stipulate to it.

MR. TAIKEFF: I am talking about the Clerk's
function.

THE CLERK: Defendant's Exhibits W through
W-13, marked into evidence.

MR. LEVIN-EPSTEIN: May Mr. Fein confer with
his associate? This is apparently going longer.
I see him signaling to his associate.

THE WITNESS. Thank you.

(Recess taken.)

1
2 BY MR. TAIKEFF:

3 Q The photographs are now in evidence, they are
4 before you. Will you tell us whether those photographs depict
5 one to each photograph power presses?

6 A I would say these three are power presses (indi-
7 cating).

8 THE COURT: You have separated the three?

9 THE WITNESS: I have separated three.

10 MR. TAIKEFF: The witness has separated W-2,
11 W-3, and W-10, and said they are power presses.

12 THE WITNESS: This could be called a power
13 press -- most of them could be -- very many of them
14 could be. This could be (indicating).

15 THE COURT: Tell me which ones you think are
16 probably not.

17 MR. TAIKEFF: So far he has mentioned three.

18 THE WITNESS: Let me say these aren't -- is
19 that W-4?

20 Q Yes.

21 A W-4, W-11 and W-13.

22 THE COURT: Are bench presses?

23 THE WITNESS: I would call them bench presses.
24 I wouldn't call them power presses.

25 MR. LEVIN-EPSTEIN: I am sure the jury would

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2 we were there. We had an FBI photographer there.

3 Q That was September 8th of 1975?

4 A Yes.

5 Q Did you see the Clark fork-lift truck contained
6 in this picture?

7 A No, sir, I did not.

8 Q But you know this picture was taken on that day?

9 A The photographer took numerous photographs.

10 Q Directing your attention specifically to a piece
11 of machinery that I will describe to you as a Benchmaster
12 press, did you see any of those on the premises?

13 A Yes, I did.

14 Q Directing your efforts to your independent
15 recollection, without referring to any notes or what you have,
16 can you sit there and describe in detail the Benchmaster
17 presses that you saw and any serial numbers that you might
18 have recorded on them?

19 A To answer the second part of the question first,
20 I do not recall the serial numbers, if any , on the machinery
21 looked at.

22 To answer the first part of your question --

23 Q Yes, go ahead.

24 A A piece of machinery looks the same as any
25 other piece of machinery. I am not a machinist nor am I an

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DECEMBER 14, 1976.

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Kelly-direct

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would have to go through this to see what I did at the time.

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Q Would it be fair to say, then, that when there was no apparent or obvious serial number you did not record one?

6

A If there was none obvious I couldn't record it.

7

Q Okay.

8

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11

Now continuing along the line of my questioning a moment ago about your lack of expertise in machinery, did anyone ever tell you where on particular types of machinery to look for serial numbers?

12

A No, sir.

13

14

Q So you were just going upon your own investigative talent to find whether it was there?

15

16

17

18

A I would look at a piece of machinery and look around for either a stamp number on the housing of the machinery or plate with the number, which to me would indicate the serial number.

19

Q And then what?

20

21

A If I found no such type number I made a record of it.

22

23

24

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Q During the course of your search of the premises that were being searched by you did you find anything that you described in your notes as a Bench Master something or Bench Master anything?

Kelly-direct

2 A Yes, sir.

3 Q How many times did it occur? You may refer to
4 your notes. Just count it up for the jury. Take your time.

5 (Witness examines document.)

6 Q Have you looked through your notes?

7 A Yes, sir.

8 Q How many times does the phrase Bench Master
9 appear to describe machinery or a piece of equipment?

10 A Three times.

11 Q Now, of those three times, sir, were you able to
12 find serial numbers for any of those three Bench Master
13 machines, any or all, for that matter?

14 A I found it for two of them, sir.

15 Q Will you please, for the record, tell us slowly
16 so that the jury can hear the difference between the two
17 numbers what those two numbers that you were able to find were?

18 A 39903.

19 Q Is there another number?

20 A There is another number on another one, yes.

21 Q Well, what is the other number?

22 A 39901.

23 Q Now, on the third Bench Master machine were you
24 able to find a serial number on that one?

25 A No, sir.

1
2 Q And did you make a notation of that in your
3 notes that you were not able to find the serial number?

4 A Yes, sir.

5 Q Will you show me where that notation appears,
6 sir?

7 A Right here (indicating).

8 Q And this is on page 2 of Government's Exhibit --
9 excuse me for my back, ladies and gentlemen -- page 2 of
10 Government's Exhibit 70 and about, oh, a little bit more than
11 halfway down the page; is that correct?

12 A That is correct, sir.

13 Q Is that the notation you just pointed out to me
14 where it says the numeral one and then dash it says Bench
15 Master power press paren Gardena paren -- that is G-a-r-d-e-n-a,
16 Mr. Simon (addressing court reporter) California close paren,
17 and then beneath that the phrase S and then a mark for a
18 number, the cross-hatch, and then it says the number not
19 shown?

20 A Yes, sir.

21 Q Did you find any other Bench Master at the
22 location other than the ones that you noted in your notes?

23 A There may have been, sir.

24 Q Did you find any is what I am asking for.

25 A No, sir, I did not.

Q Okay. Now during the course of your search when you found these three Bench Master presses -- pardon me -- could you point out to me where the two are that you had serial numbers for?

A Yes, sir. It is all on page 2 right here, sir (indicating).

Q I am going to give you a red pen, Agent Kelly, and without objection, your Honor, I am going to ask the witness to mark with the red pen where the three Bench Master notations are.

MR. TAIKEFF: No objection.

Q (Continuing) Will you take that and just mark a little --

A Asterisk?

Q Yes, make an asterisk.

A Where?

Q To the left, if you would, in the margin.

A Yes.

(Witness marks document)

Q You have made three marks, haven't you?

A Yes, sir.

MR. LEVIN-EPSTEIN: Can I have my pen back?

THE WITNESS: Yes (handing)

MR. LEVIN-EPSTEIN: Thank you.

Kelly-direct

MR. LEVIN-EPSTEIN: Ladies and gentlemen, and your Honor, for the record Agent Kelly has put three asterisks on page 2 on the lower half of the page.

Next to the three asterisks are the following notations:

One, Bench Master Power Press S No. 39903. And a little check mark next to it.

The next one, which is the next entry immediately beneath that is:

One Bench Master power press Gardena, California, as I read to you before, S number not shown.

And then third from the bottom it looks like one Bench Master power press S No. 39901, and a little check mark; is that correct, sir?

A Those are the three items that are marked, yes, sir.

Q Now, directing your attention to the notation that you have immediately below the last one that I read. Do you see where I am talking about here, on page 2, the second from the bottom?

A Yes, sir.

Q What is that notation? Would you please read that to the jury, please?

A One-power press paren ZEH, and then the and sign.

21

Kelly-direct

2 how many Bench Master presses you found or you saw.

3 A Four, sir.

4 Q Four. Would you make the asterisks next to the
5 one you inadvertently deleted?

6 A Yes (indicating).

7 Q Now, with respect to this one, Agent Kelly, that
8 says, does it not, and correct me if I am not reading it
9 correctly --

10 MR. TAIKEFF: What page, please?

11 MR. LEVIN-EPSTEIN: Page 2, top half of the page,
12 the fifth entry down from the top.

13 Q (Continuing) That reads, does it not, drill
14 press paren Bench Master and then serial number 36315, does it
15 not?

16 A Yes, sir.

17 Q How come you wrote drill press for that one?

18 A Because when I looked at this it looked to me
19 like a drill press.

20 Q Well, I asked you before whether you had the
21 expertise in machinery; is that correct?

22 A Yes.

23 Q You said no.

24 A That is correct.

25 Q Would it be fair to say then that when you put

1
2 drill press here -- excuse me, your Honor, when you put drill
3 press there it was an attempt by you to describe it to the best
4 of your ability?

5 A Yes, sir.

6 MR. LEVIN-EPSTEIN: Thanks for the pen.

7 THE WITNESS: You are welcome.

8 MR. LEVIN-EPSTEIN: No further questions.

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10 (continued next page)

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2 CROSS-EXAMINATION

3 BY MR. TAIKEFF:

4 MR. TAIKEFF: Might I inquire?

5 THE COURT: Please do.

6 MR. TAIKEFF: Might I have this sheet of paper
7 marked for identification, your Honor?

8 THE COURT: Yes.

9 THE CLERK: One sheet marked for identification
10 as Defendant's Exhibit BB.

11 (So marked.)

12 MR. TAIKEFF: Might I inquire whether the
13 Government will stipulate that on this piece of paper
14 are accurately listed the seven serial numbers from
15 the 1969 inventory?

16 MR. LEVIN-EPSTEIN: Sure.

17 Q Mr. Kelly, I'm placing before you Defendant's
18 Exhibit BB for identification and ask you to place your
19 initials in the box underneath your name which corresponds
20 to any of those serial numbers which you have or you found
21 on the premises at the time you executed the search warrant.

22 A Would you repeat your question? I didn't hear
23 it completely as you were walking away.

24 Q I'm sorry, sir.

25 Those serial numbers on the left-hand margin

A 144

Kelly-cross-Taikeff

1 of that piece of paper which is BB for identification, and
2 I've headed up a column with your name, Kelly. You've
3 identified certain machines by serial number. I would like
4 you to just put your initials in whichever box corresponds
5 to any serial number that you specifically identified.
6

7 A A black pen all right?

8 Q Yes sir, anything you choose.

9 MR. TAIKEFF: Might I consult with the
10 Government for a moment, your Honor?

11 THE COURT: Sure.

12 (Pause.)

13 Q Have you finished making those markings?

14 A Yes sir, I have put my initials on three of
15 those.

16 Q Now, I'm placing before you Defendant's Exhibit
17 W-1 through W-13 and W and ask that you look at them.

18 THE COURT: Have you looked at them?

19 THE WITNESS: Yes, your Honor, I glanced at
20 all of these.

21 THE COURT: He's looked at them.

22 Q Now, you executed the search warrant in 1975,
23 is that correct?

24 A I was one of the participants in executing
25 it, yes sir.

Kay-direct

time during the course of your official duties and as part of your official investigation when you visited the premises known as 145 Faith Street, Brooklyn, New York?

A Yes.

Q Did you have occasion to observe the exterior or outer portion of that premises before you went inside at all?

A Yes.

Q What if anything did you see on the street outside 145 Faith Street, Brooklyn, New York?

A Parked across the street from 145 Faith Street was a blue GMC truck.

Q What was at 145 Faith Street?

A 145 Faith Street in Brooklyn is the office of the factory, American Identification Products.

Q I show you Government Exhibit 66 for identification. I ask you if you recognize that photograph?

A Yes, I do.

Q Could you tell us when that picture was taken?

A I believe this picture was taken on September 18, 1975.

Q Can you identify what is portrayed in that photograph?

A Yes, I can.

Kay-direct

A Portrayed in the photograph is a CMC truck painted blue with the logo, or name American Identification Products on the cab portion or door of the truck.

Q Is this the truck you saw on September 2?

A It is.

MR. LEVIN-EPSTEIN: Offered in evidence.

MR. TAIKEFF: No objection.

MR. SHERMAN: No objection.

THE CLERK: Government Exhibit 66 received in evidence.

(so marked)

Q Was this photograph taken by an FBI agent?

A It was taken by an FBI special clerk who specializes in photography.

Q He is employed by the Bureau?

A That is correct.

Q Visible in this photograph of the American Identification truck there is a license plate; is there not?

A Yes.

Q Can you read the license plate and tell us in what state that truck was registered in September of 1975?

A The license plate in front of the truck bears New York commercial license plate 9413GZ.

Q Did you have occasion on the day that you saw

1 Kay-direct

2 this truck first, September 2 -- I believe it was September
3 2, did you say?

4 A Yes.

5 Q 1975? To examine the truck closely?

6 A Yes, I did.

7 Q You testified a moment ago that this truck
8 when you saw it then was blue in color?

9 A that's correct.

10 Q Were there any other colors on the truck that
11 you noted as part of your investigation?

12 A Yes, when we examined the exterior of the
13 truck, street level, we noticed a couple of dents in the panel
14 portion of the truck. You can see where the truck had been
15 scratched-- underlying color was yellow.

16 Q Can you point out in this photograph where
17 you looked to see if it was yellow underneath, if it appears
18 in this photograph at all?

19 A The back portion here (indicating) and along
20 the rail would prove the side bumper or guard -- the back
21 portion of this picture is of the truck. There are some dent
22 and scrapes where the blue paint had been scraped. You could
23 see yellow underneath it.

24 Q By the way, there's another car in that pic-
25 ture, is it not?

A 148

Kay-direct

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2 A Yes.

3 Q Do you recognize that car?

4 A No, I don't.

5 Q Had nothing to do with your investigation?

6 A Not that I'm aware of, no.

7 Q After seeing this truck did you have occasion
8 to cause that license plate to be run through the Department
9 of Motor Vehicle computer at the FBI at all?

10 A Yes.

11 Q As a result of that did you learn what if
12 any vehicle identification number or serial number was assigned
13 to the vehicle bearing that license plate?

14 A Yes, I did.

15 Q Did there come a time when you obtained certain
16 certified copies of the Department of Motor Vehicle records?

17 A Yes, I made a request of the Department of
18 Motor Vehicles in Albany, New York for a copy of their regi-
19 stration for the license plate to the truck that this was
20 issued to.

21 Q I show you Government Exhibit 67 for identi-
22 fication. I ask you is this a certified copy that you received?

23 A Yes, it is.

24 MR. LEVIN-EPSTEIN: Offered in evidence.

25 (handing to defense counsel)

Kay-direct

MR. TAIKEFF: No objection, your Honor.

THE CLERK: Government Exhibit 67 received
in evidence.

(so marked)

MR. LEVIN-EPSTEIN: With the Court's permission
Government Exhibit 67 in evidence, ladies and gentle-
men is a photostatic copy of an original record of
the Department of Motor Vehicles which copy is
certified as of September 15, 1975 by the Department
of Motor Vehicles and is as follows.

As you can see, and I'll hold it for you;
follow along with me, the copy where I'm indicating
now, in the middle of the page is the front part of
the registration ticket, part 3 of the Motor Vehicle
registration in the name of American Identification
Products, Inc at 143-145 Faith Street, Brooklyn,
New York, registered at plate number 9413GZ.

Q By the way, is that the number on the truck?

A Yes, it is.

MR. LEVIN-EPSTEIN: Is a 1967 GMC van-type
truck, serial or Vehicle Identification Number C6946F.
This registration expires on January 31 of 1976.

Q During the course of your investigation and
when you asked for the Department of Motor Vehicles to

Kay-direct

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2 provide Government -- what is now Government Exhibit 67
3 in evidence, did you have occasion to request any further or
4 additional information from the Department of Motor Vehicles
5 about vehicles owned or -- well, owned by AIP?

6 A At the time, I made the request on the truck
7 I asked the Department of Motor Vehicles in Albany to furnish
8 another registration of vehicles owned by American Identi-
9 fication Products.

10 (cont'd on next page)
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Key-direct

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Q Did they furnish you with an additional document?

A Yes, they did.

Q I show you Government Exhibit 68 for identification. (Handing.) I ask you if that's the certified copy of the additional document?

A Yes, it is.

MR. LEVIN-EPSTEIN: Offered in evidence.

(Handing to defense counsel.)

MR. TAIKEFF: No objection.

MR. SHERMAN: No objection.

THE CLERK: Government Exhibit 68 received in evidence.

(So marked.)

MR. LEVIN-EPSTEIN: With the court's permission, Government Exhibit 68 -- by the way, Government Exhibit 67, Ladies and Gentlemen, is signed by Floyd, President which according to our stipulation, of course, is George Moss's signature.

Government Exhibit 68 is a registration for a 1962 yellow suburban Chevrolet stationwagon, license plate 158WTP, vehicle identification number 134469B-313953, registered to American Identification Products expiring on January 31 of 1965, signed Floyd Moss,

of the search warrant to one of the employees in the office.

Q After entering pursuant to the order of the court, did you have occasion to begin the execution of this search?

A Yes, I did.

Q During the course of the search, did you seize anything?

A No.

Q Were photographs taken?

A Yes, they were.

Q Were serial numbers recorded when possible?

A Yes, they were.

Q Did you take part in the search?

A Yes.

Q Did Agent Kelly as he testified?

A Yes.

Q Other agents?

A Yes.

Q You heard Agent Kelly's testimony with respect to certain notes he prepared and maintained. Did you prepare certain notes?

A I did.

Q Directing your attention to the materials that you searched for or found, direct when you personally observed

1
2 any Benchmaster machines?

3 A Yes, I did.

4 Q When possible did you have occasion to observe
5 -- strike that.

6 Did you have occasion to observe any serial
7 numbers on any of these Benchmaster machines you saw?

8 A Yes.

9 Q When it was possible to see a serial number,
10 did you record it?

11 A Yes.

12 Q As you sit here today, can you recall from an
13 independent recollection what the serial numbers on those
14 Benchmaster machines were?

15 A No, I do not.

16 Q I show you Government Exhibit 69 for identifica-
17 tion. I ask you to review this document and after you've
18 reviewed it to yourself, would you tell the jury and the court
19 whether or not your recollection is refreshed as to the serial
20 numbers you saw on the Benchmasters?

21 A No, it is not.

22 Q At the time you recorded the serial numbers as
23 you've described it, was that an accurate at that time to the
24 best of your knowledge recordation?

25 A Yes, my notes were made contemporaneously as I

1
2 was looking at the machinery.

3 Q To the best of your knowledge at that time were
4 they accurate?

5 A Yes, they were.

6 Q You've referred by pointing to Government 69
7 for identification. Are these the notes you prepared?

8 A Yes, it's my handwriting.

9 Q Do you recognize them as the notes you prepared
10 on that day?

11 A Yes, it is.

12 MR. LEVIN-EPSTEIN: Offered in evidence as a
13 Government's offer of past recollection recorded.
14 (Handing to defense counsel.)

15 THE COURT: Do you want a few minutes to look
16 at them?

17 MR. TAIKEFF: I have one question on voir-dire,
18 your Honor.

19 THE COURT: Proceed.

20 VOIR-DIRE EXAMINATION

21 BY MR. TAIKEFF:

22 Q Other than these notes, 69 for identification
23 and those of Kelly, are there any other notes that were made
24 contemporaneously?

25 A That I made?

Kay-direct

Q No, that were made that you know of the existence of.

A I believe the other agents that were there also made notes, yes.

MR. TAIKEFF: I have no further questions, no objection.

MR. LEVIN-EPSTEIN: Offered in evidence.

DIRECT EXAMINATION

BY MR. LEVIN-EPSTEIN: (Continued.)

THE COURT: It will be received.

THE CLERK: Government 69 received in evidence.)

(So marked.)

Q Directing your attention, Mr. Kay. to your notes which are Government's 69 in evidence, could you take my red pen that was used by Mr. Kelly and just make an asterisk along the left-hand margin next to those items which you identified as Benchmaster machinery of some kind?

MR. TAIKEFF: I wonder if the Government has an extra copy that can be provided to the defense?

MR. LEVIN-EPSTEIN: No I don't, your Honor.

THE COURT: I'll tell you what we'll do. We'll take the five minute recess at this time to make a copy of it and give it to him.

MR. LEVIN-EPSTEIN: Very well.

(Recess.)

(Continued on next page.)

SS/tk

(Jury enters courtroom.)

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(Jeffrey Kay resumes the stand.)

CROSS-EXAMINATION

BY MR. LEVIN-EPSTEIN: (Cont.)

MR. LEVIN-EPSTEIN: Might I proceed?

THE COURT: Yes.

Q Mr. Kay, we were talking about your notes, Government's 69 in evidence. I believe at the recess you began to mark the left-hand margin with the red pen. Those machines which you saw which you described as being Benchmaster in description, actually, if you would just complete that?

(Pause.)

Q (Cont.) Have you done that?

A Yes, I have.

Q How many of the machines that you saw did you describe in your notes as Benchmaster?

A I saw four.

Q Those are the ones that you've marked?

A Yes, I have.

Q First page of Government's 69, about two-thirds of the way down the page, you have a notation, one Benchmaster SN. I assume that's serial number?

A That's correct.

Q 36315 and then the words "model 1926"?

A That's correct.

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2 Q Second from the bottom on the first page you
3 have one Benchmaster drill, model 1926; serial number 398987

4 A That's correct.

5 Q Nothing on the second page?

6 A That's correct.

7 Q The third page, the third notation is one
8 Benchmaster, serial number 39902, model 1970. What does that
9 say (Indicating)?

10 A Model 1929 with the "9" underlined.

11 Q What is the underlining on the "9" mean?

12 A It was questionable from my observation if that
13 was really a "9" due to the age and quality of the machine.

14 Q The next page there is a listing, third from
15 the top, which says one Benchmaster press.

16 A That's correct.

17 Q Serial number 39900?

18 A That's correct.

19 Q Is there an underlining under one of those
20 series?

21 A Yes.

22 Q What does that mean?

23 A It means it was hard to observe what looked to
24 me as a zero.

25 Q That's also model 1920 according to your

observation?

A That's correct.

Q Then there are no others listed; is that correct?

A That's correct.

Q I show you defense exhibit BB for identification --

MR. LEVIN-EPSTEIN: You want this in evidence?

MR. TAIKEFF: I will, eventually.

MR. LEVIN-EPSTEIN: I'll stipulate it into evidence now.

MR. TAIKEFF: No objection.

MR. LEVIN-EPSTEIN: Do you want to offer it as a defense exhibit?

MR. TAIKEFF: Makes no difference to me.

MR. LEVIN-EPSTEIN: To be marked as defendant's exhibit BB, your Honor?

THE COURT: Yes.

THE CLERK: So marked.

Q Using Mr. Moss's exhibit, exhibit BB, which is now marked in evidence, the way it appears, could you put your initials underneath your name where it appears here, "Kay", indicating which of these serial numbers you observed?

A (Witness complies.)

Q You've placed your initials three times next to numbers 39900, 39902 and 36315. Didn't you say that you

Kay - cross

1
2 had seen four Benchmasters?

3 A I did.

4 Q Why is it that you have not affixed your
5 initials to a fourth of these?

6 A Serial number: I have in my notes does not
7 match the serial number on that sheet.

8 Q What do you mean? Do you have in your notes
9 that you didn't list here -- 39898?

10 Did there come a time after you observed that
11 you had written 39898 when you learned the accurate and true
12 number that should have been there?

13 A Yes, I did.

14 Q Which of those numbers is that number; where
15 did you make your mistake?

16 MR. TAIKEFF: I would ask your Honor that the
17 witness be asked a foundation question or two.

18 THE COURT: Yes, I think so.

19 When did this time come?

20 Q When did you first learn of your mistake?

21 A After I returned to the office following the
22 recording of the serial numbers. I compared the 1969 list.

23 Q That's Mr. Fein's audit --

24 A Yes.

25 Q Appraisal?

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3 A Yes.

4 MR. TAIKEFF: Then I must object, your Honor,
5 on the basis of hearsay; that is to say, the question
6 that was put before I originally rose would then be
7 hearsay.

8 THE COURT: No, that's an exhibit in evidence.
9 He can do it here today. I'll allow it.

10 MR. TAIKEFF: Might I explain to your Honor at
11 the sidebar why I believe that's hearsay? It will be
12 very brief.

13 THE COURT: It's an exhibit.

14 MR. TAIKEFF: I understand.

15 MR. LEVIN-EPSTEIN: Government's 44.

16 MR. TAIKEFF: I don't know the explanation about
17 to be offered is appropriate on the basis of hearsay.

18 THE COURT: No, you're overruled.

19 Q You may continue, Mr. Kay. Forgive me if I still
20 call you Agent Kay. I'm used to that.

21 A When I got back to the office I compared the
22 serial number I had written down, the serial numbers recorded
23 in the 1969 appraisal. At that time I noticed that there was
24 number 39998 and I had in my list 39898.

25 Q So you transposed the two digits?

MR. TAIKEFF: Objection to the leading.

Kay - cross

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THE COURT: Yes, sustained.

Q What happened to those two digits?

A There's a transposition of figures.

Q The list that you spoke of in 1969 is now marked Government exhibit 44 in evidence?

A Yes, it is.

Q On defense exhibit BB, using not the pen that you just wrote your initials, but using the red pen, would you put your initials next to the number where you had transposed the numbers inadvertantly?

A (Witness complies.)

Q I ask you, if you would, to compare the numbers -- the first six numbers -- on defense exhibit BB which have initials of either yourself or Agent Kelly to the serial numbers as they appear in Government exhibit 44, the appraisal done in 1969. Will you tell us which, if any, of those serial numbers appears in 1969 and in 1975?

A Serial number 39900 appears on the '69 appraisal and is seen by Mr. Kelly or myself in 1975.

Q Were seen by both of you and Mr. Kelly --

A No, I observed 39900.

Q Go ahead.

A 39901 appears on the '69 list, was seen by Mr. Kelly in '75. 39902, which appears on the '69 list, was

1 seen by myself in 1975. 39903 which appears on the '69 list
2 was seen by Mr. Kelly. 39998 was on the '69 list, was seen
3 by myself. 36315, which appears on the '69 list, was seen
4 by Mr. Kelly.

5 Q Was it also seen by you?

6 A Yes, it was.

7 Q So you actually both saw the same one and
8 recorded it, in effect, twice?

9 A That's correct.

10 Q Defense exhibit BB in evidence, there are no
11 initials next to serial number 08899, are there?

12 A Yes.

13 Q That is listed in Government exhibit 44; is
14 that right?

15 A Yes, it is.

16 Q Have you recalled Agent Kelly's testimony he
17 saw a Benchmaster that he couldn't make a serial number on?

18 A I do.

19 Q He did not record a serial number for that one?

20 A Yes.

21 Q That was in 1975?

22 A That's correct.

23 Q During the course of this search warrant
24 execution, did there come a time when you observed what you
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Kay - cross

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Q Was anything else being painted on that day?

A Yes, there were cans of green paint around the factory and machines were in the process of being painted or half-painted that color. It was wet paint.

(continued next page)

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my Rule 29 motion with respect to Count 7. It is my position, though, that the count charges as it now reads, four bench drill presses.

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THE COURT: No, four bench presses.

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MR. TAIKEFF: I didn't know your Honor had finally ruled.

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THE COURT: I ruled on that this morning. You said you would find something to show me I was wrong. There was no doubt in my mind I was correct on that.

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MR. TAIKEFF: We have heard testimony in this case, your Honor, there is a distinction between a drill press and a bench press. Since the time your Honor heard argument this morning, at least one of the agents and possibly two have identified one object in each of those handwritten reports which were offered in evidence that there were benchmaster drill presses, at least according to their notes and so they're being both Benchmaster drill presses and benchmaster power presses, according to their observation and their being generally in existence in this world drill presses, I think as a threshold question it is appropriate for me to ask your Honor to consider whether in the word "drill press" merely surplusage or whether it constitutes a material amendment of that count.

THE COURT: I don't think it makes any difference

Q When for the first time did you -- speaking about your own personal subjective understanding of -- when for the first time did you learn that you were going to be or Stafford was going to be adjudicated a bankrupt?

A When it appeared before Justice Price in the Bankruptcy Court on August 8th, 1972.

MR. LEVIN-EPSTEIN: Before he asks the next question in an effort to be very careful may we approach the side bar?

THE COURT: Yes.

(The following discussion took place at the bench between the Court and counsel.)

MR. LEVIN-EPSTEIN: Your Honor, if Mr. Taikeff asks the next question, which I anticipate will have to do with any proceedings before the Bankruptcy Court, I wish the Court to recognize that the Government will take the position that any privilege under the Fifth Amendment will be completely and inexorably waived.

THE COURT: He does that anyway now when he takes the stand.

MR. TAIKEFF: He does that when he takes the stand.

MR. LEVIN-EPSTEIN: All aspects of the Fifth

Moss-direct

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Amendment are waived, correct?

MR. TAIKEFF: That is my understanding, if he takes the stand, he waives the Fifth.

MR. ENGELSTEIN: That is one of the reasons they sometimes do.

MR. LEVIN-EPSTEIN: I want to be absolutely clear because this is a bankruptcy case and there are some possible ramifications.

MR. TAIKEFF: That is information you have given and I appreciate the efforts you have made to make sure that something untoward did not happen, and I say that with all seriousness. I was not going to go into detail. I just wanted to get the date of his first knowledge and that is it.

MR. LEVIN-EPSTEIN: That may be your attempt, Mr. Taikeff, but I merely advised the Court --

THE COURT: Once he takes the stand anyway he has waived it.

MR. LEVIN-EPSTEIN: That includes the Fifth Amendment that accrues under Title Eleven.

THE COURT: Yes, surely.

MR. LEVIN-EPSTEIN: Okay.

(The following occurred in open court.)

Q I think your last question and answer was when

TRANSCRIPT DATED
DECEMBER 15, 1976.

DIRECT EXAMINATION

BY MR. TAIKEFF: (Continued.)

Q What was that room used for?

A Dies.

Q How about the rooms in between in sizes, what were they used for; that is to say, between the smallest three and the largest one?

A What they were used for?

Q Yes.

A The same type of material, parts, pieces, small machines, parts of machines, material components, tools and just about anything that a factory of manufacturing products would use, finished products in some instances.

Q In what rooms were your father's business materials stored?

A Dad's material?

Q When you say material, do you mean something when you say material?

A I mean tools and dies and blanks, if you can call it such, you know, blank parts, in other words unstamped, unmarked and some marked pieces, finished or unfinished parts used in making the old-style products were stored in the room and the dies were also stored in the room.

Q A different room or the same room?

Moss-direct

1194

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2 A the dies were stored in one room and the components
3 and parts were stored in another area. That does not include
4 the pieces of equipment.

5 Q Where are the pieces of equipment?

6 A Well, they were going -- going through the plant
7 they were in the area in the rear of the plant, just beyond
8 the storage room for the tools.

9 Q Was there any basis, other than their location,
10 upon which you could identify the property which you claim to
11 be your father's?

12 A Yes.

13 Q What is that basis, briefly?

14 A Knowledge of the parts and the units and knowing
15 they didn't fit in with the rest of the plant. They were just
16 antiquated -- they were just antiquated.

17 Q I place before you Defendant's Exhibit D for
18 identification, A for identification, E for identification,
19 F for identification, Z for identification and AA for identi-
20 fication. (Hanging.)

21 A Yes?

22 Q Do you recognize what is depicted in each of
23 these photographs?

24 A Yes, I do.

25 MR. TAIKEFF: Does the Government wish to see

2 the photographs, your Honor?

3 MR. LEVIN-EPSTEIN: Of course.

4 Q What's depicted in Defendant's Exhibit D for
5 identification?

6 A Well --

7 MR. LEVIN-EPSTEIN: Objection.

8 THE COURT: Pardon?

9 MR. LEVIN-EPSTEIN: Objection.

10 THE COURT: Go ahead.

11 A It's an old paper cutter on which --

12 THE COURT: That's enough.

13 THE WITNESS: There are two items located --

14 THE COURT: On which?

15 THE WITNESS: On which is placed an old mitre
16 cutter for cutting rubber stamps.

17 THE COURT: All right, old mitre cutter.

18 Q Were those two objects which are depicted in
19 that photograph on the premises, 145 58th Street on the day
20 of the auction as far as you know of your own personal knowl-
21 edge?

22 A No, September 7th -- you mean the date of the
23 auction?

24 Q That's right.

25 A No.

Moss-direct

1196

Q I place before you Exhibit E. What does that depict?

MR. LEVIN-EPSTEIN: Objection.

THE COURT: Until you offer it in evidence.

MR. TAIKEFF: Before the witness says what it depicts?

THE COURT: B-fore you can describe it.

MR. TAIKEFF: Beg pardon?

THE COURT: You must offer it in evidence before he can describe it.

MR. TAIKEFF: All right, I offer it in evidence.

MR. LEVIN-EPSTEIN: Objection.

THE COURT: What ground?

MR. LEVIN-EPSTEIN: Relevance.

MR. TAIKEFF: That's why your Honor can't rule on the relevance until he says what it is.

THE COURT: I'll take it subject to connection.

MR. LEVIN-EPSTEIN: Voir dire, I'll ask for a short voir dire.

MR. TAIKEFF: I object again for the reasons stated earlier this morning.

THE COURT: I'll sustain your objection. I'll take it subject to connection. Offer it in evidence.

MR. TAIKEFF: I did and I do.

1
2 THE COURT: Bring it over to Mr. Nims, have
3 him put a sticker on and have him mark it properly
4 on the record.

5 THE CLERK: Defendant's Exhibit E, photograph,
6 marked in evidence.

7 (So Marked.)

8 MR. TAIKEFF: Thank you, sir.

9 Q Would you be kind enough to tell the court and
10 the jury what's shown in Exhibit E, just generally speaking?
11 I'll ask you questions about it.

12 A There are stencil dies for cutting brass sten-
13 cils of various prop. rty.

14 Q Whose property?

15 A Ours -- I mean my brother's and mine, not my
16 father's initial. He's "G," the various sizes of stencil
17 dies, both hand and machine dies, of the Roman type, which
18 is the old-style type of letter with the curlicues; steel
19 stamps -- steel stamps of various types, mostly numbers and
20 figures and letters, of course.

21 Q Do you have any personal knowled-e as to
22 whether or not those objects were on the premises at the time
23 of the auction sale, yes or no?

24 A No response.

25 Q Do you have any knowledge?

Moss-direct

1198

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A Yes, I have knowledge.

Q Were they there?

A No.

MR. TAIKEFF: May I at this time, to save time, have all of these photographs marked and then elicit, subject to connection, your Honor?

THE COURT: Yes.

MR. TAIKEFF: I therefore request --

THE COURT: Show them to Mr. Levin-Epstein.

MR. TAIKEFF: I already have.

THE COURT: Fine.

MR. TAIKEFF: That Exhibits D, A, F, Z, and AA be marked in evidence.

THE CLERK: Defendant's Exhibits A, D, F, Z, and AA marked in evidence subject to connection.

(So marked.)

MR. TAIKEFF: Does the Government want to see them again, your Honor?

MR. LEVIN-EPSTEIN: Have they changed since I saw them a moment ago?

MR. TAIKEFF: I don't believe they have, your Honor.

THE COURT: Show them to the witness.

Q I place before you F in evidence. (Handing.)

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Tell the jury and the court, briefly, what that depicts?¹¹⁹⁹

A It's one of Dad's old printing presses.

Q Was that on the premises at the time of the auction sale, yes or no?

A No.

Q Do you know where it was, yes or no?

A Yes.

Q I show you A in evidence. (Handing.) What's in that picture?

A These are type drawers, for wooden and metal type, formerly in cabinets, but the cabinets were destroyed and now we only have the doors there.

Q Were those objects on the premises at the time of the auction sale?

A No.

Q Do you know where they were?

A Yes.

Q You've told what's in D previously. I don't know whether I asked you. I'll make sure by asking you again, do you know where those two objects were (Handing to witness)?

A Yes.

Q That's the cutting machine?

A And the mitre.

Q And the mitre cutting machine. Were they on

Moss-direct

1200

the premises at the time of the sale?

A No.

Q How about AA in evidence?

A Shall I describe it to you?

Q Yes, please.

A These are --

Q What are they called?

A They're dies, they're old badge dies for styles of badges, the type my father used to manufacture, similar to this item I'm holding in my hand which I carry around with me, which is an old fire badge (Indicating.), at least a mold from an old fire badge. These are the actual dies themselves which I used to form up the badges.

Q You pour metal into them?

A Not quite, you put a small strip of metal and a press comes down and creates the shape.

Q Was that material on the premises at the time of the sale?

A No.

Q Do you know where it was?

A Yes.

Q How about Z in evidence (Handing.)?

A These are medallion dies and they're used for producing various types of button medallions.

1
2 Q Was that material on the premises at the time
3 of the sale?

4 A No.

5 Q Do you know where it was?

6 A Yes.

7 Q You have before you six photographs, is that
8 correct?

9 A Yes.

10 Q At any time in the history of the world, did
11 any of the objects depicted in those six photographs belong
12 to Stafford Manufacturing Company, Inc.?

13 A No.

14 Q Do you know where those photographs were taken?

15 A Yes.

16 Q Where were they taken?

17 A At the plant, at 145 58th Street.

18 Q Approximately when were they taken, within how
19 many days, weeks, months or years of today?

20 A Within the last ten days.

21 Q Where were the objects shown in that photograph
22 on the date of the auction sale, September, 1972?

23 A They were in a store in Lido Beach, Lond Island,
24 near Long Beach.

25 Q Who owns that store or who owned it at that

10
1 time?

2
3 A My mother-in-law, Florence Garten.

4 Q When did that property return to 145 58th
5 Street from Long Beach?

6 A In early '73, about, approximately, early 1973
7 I should say.

8 Q Do those photographs depict all of your
9 father's property that was in 145 58th Street?

10 A No.

11 Q Is there more of your father's property
12 presently in 145 58th Street?

13 A No.

14 Q Briefly, explain the relationship between what
15 you have now and what was taken to Long Beach.

16 A There's less now. There's only a portion, let's
17 say 50 percent, left now. The materials taken to Long Beach
18 included type cases which had the type drawers in them.
19 Because they're aged, in the moving they were damaged and
20 broken. We had to dispose of Dad's old rubber vulcanizers.
21 They fell apart. One of the printing presses became scrap.
22 We just got rid of it. I disposed of scrap and throwing into
23 rubbish a lot of the components that I liked so much, but I
24 realized they were of no value.

25 MR. LEVIN-EPSTEIN: I don't object to what

1 A I think it was net pay. I can't be sure, I
2 really can't. I might say it came -- he came in really as
3 an unskilled worker. He really was not a mechanic at all. He
4 just did actual -- what you might call unskilled, totally
5 unskilled labor.
6

7 Q I'm going to ask you some questions about the
8 specific charges in the indictment. Before I do that, is
9 there any other topic or subject you want the jury to know
10 about that I haven't touched upon?

11 MR. LEVIN-EPSTEIN: I'll object to that, on a
12 myriad of grounds, your Honor.

13 MR. TAIKEFF: I'm asking if there's any topic
14 that I have neglected to question him about.

15 MR. LEVIN-EPSTEIN: This isn't a forum for
16 speech making, your Honor.

17 THE COURT: Sustained.

18 Q Listen to my question and answer my question.
19 Count one of the indictment charges you, on or
20 about, but not later than the 10th day of August, 1972, in
21 contemplation of a bankruptcy proceeding, knowingly and
22 fraudulently concealing in 1967 a GMC truck. On what date
23 did that '67 GMC truck travel to Long Island and remain there?

24 A On August 11th.

25 Q Did you ask Mr. Rubin to make some arrangement

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metropolitan area?

A Most of its existence, no.

Q Where was it garaged, generally?

A Generally in Baltimore, when the work was being done on the ships down there.

Q By whom was it used?

A By about six or seven different drivers because they worked for me aboard the ships. They all took turns driving the cars.

Q What or how or the circumstances was it used. Do you understand that question?

A Not quite, sir.

Q Was it used on over the road trips, was it used for local deliveries, was it used on the docks and piers; how was it used, what circumstances?

A Used to transport the men from ship to ship together with the supplies and ship to shore with the label plates, supplies, drilling tools and it went from Baltimore to Charleston to Norfolk to Charleston to New Orleans and back over its active history.

Q Did you have any direct personal contact with the 1969 Chevrolet station wagon?

A No.

Q Other than the technical fact that you were

A 180

Moss-direct

president of that corporation?

A No.

Q Did you ever drive it?

A No.

Q Did you ever transport it anyplace?

A No.

Q Did you ever conceal it anyplace?

A No.

Q With or without fraudulent intent?

A No.

Q Did you ever cause any other person to take it someplace for the purpose of concealment, whether with or without fraudulent intent on your part?

A No.

Q Count Six of the indictment concerns a Clark forklift truck. Have you seen the Government's photograph of the fork lift truck which is painted white and orange?

A Yes.

Q Is that Clark fork lift vehicle in the American plant right now as far as you know?

A Yes, it is.

Q Was it in the Stafford Plant as far as you know?

A Yes.

Q Do you remember when Stafford first acquired

Moss-direct

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2 that piece of equipment?

3 A No, I don't recall exactly, but I would say
4 it was about twelve years ago, fifteen years ago.

5 Q On what basis did you acquire it?

6 A On an --

7 Q Did you rent it, lease it?

8 A As I recall, it was a rental-lease plan.

9 Q Do you remember --

10 A A rental-lease payment plan.

11 Q Eventually, it became Stafford's property?

12 A Yes.

13 Q Were you at the auction sale?

14 A No.

15 Q Do you have any personal knowledge as to what
16 fork lift was at the auction sale?

17 A No.

18 Q When for the first time did you learn that the
19 presence of the fork lift truck -- give me the year, if you
20 can't give me the month and year. When did you first learn
21 that the fork lift truck was the subject of any inquiry?

22 A Late 1975.

23 Q Was there anything about the presence of the
24 Clark fork lift truck in the American plant of any concern
25 to you?

A 182

Moss-direct

A No.

Q Before you found out in late 1975 that it was the subject of an investigation?

A No, I never paid any attention to it.

Q You knew it was there?

A Yes.

Q Was its presence something that you thought peculiar or strange?

A No.

Q Did you at any time personally or through another assistant or agent or employee ever conceal the fork lift truck?

A No.

Q At any time before August 10th, on August 10th or after August 10th?

A No.

Q Do you have any personal knowledge of which specific pieces of machinery were purchased at the auction sale, as of now?

A No.

Q You've reviewed the sale list?

A I'm sorry, I've seen the sales list recently.

Q Let's take it as of right now.

A Yes, I'm familiar with it.

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2 life did you or anyone with your knowledge or anyone under
3 your instructions remove a Benchmaster power press, any
4 drill press, any press, any Benchmaster piece of equipment
5 from the plant from Stafford's plant?

6 A No.

7 Q From American's plant?

8 A No.

9 Q Did you ever conceal or fraudulently take any
10 kind of piece of equipment from anybody, including Stafford?

11 A No.

12 Q Sir, Counts 8 and 10 refer to two checks. The
13 first count refers to a thousand dollar check. The second
14 of those counts refers to a fifteen hundred dollar check.
15 I think I just noted for you Count 8 concerned a thousand
16 dollar check, Count 10 concerns a fifteen hundred dollar
17 check.

18 Who issued those checks?

19 A Surlass Ship Repair.

20 Q What did those checks cover?

21 A IT covered installation services on the LST-1168
22 which is a ship, the services I performed after the
23 adjudication, myself.

24 Q When did the work begin?

25 A About -- the work I performed began about

11 1

Moss-direct

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A Yes, I do.

3

Q What was that date?

4

A September 22.

5

Q I show you Defendant's Exhibit L for

6

identification (handing to witness), and ask you whether that

7

piece of paper has anything to do with the subject matter you

8

just testified about?

9

A Yes, it does.

10

MR. TAIKEFF: I offer it in evidence.

11

MR. LEVIN-EPSTEIN: Might I see it, please.

12

(Document handed to Mr. Levin-Epstein.)

13

MR. TAIKEFF: A copy of which was previously

14

supplied to the Government, your Honor.

15

MR. LEVIN-EPSTEIN: At Court order.

16

MR. TAIKEFF: I think that's highly

17

inappropriate.

18

THE COURT: It doesn't make any difference;

19

disregard it.

20

Do you object to it?

21

MR. LEVIN-EPSTEIN: I have no objection.

22

THE COURT: To be received.

23

THE CLERK: Defendant's Exhibit L, packing

24

slip, marked in evidence.

25

(So marked.)

Moss-direct

1
2 BY MR. TAIKEFF:

3 Q Very briefly, you don't have to read from it
4 or give every word on it, just summarize what that document
5 is?

6 MR. LEVIN-EPSTEIN: Objection, the document
7 speaks for itself. Let Mr. Taikeff read it to the
8 jury if he wants to.

9 MR. TAIKEFF: All right.

10 It's a document which is entitled "Packing
11 Slip." Carries the name Stafford Manufacturing
12 Company, Inc. on it. It's dated September 22, 1972.
13 It indicates the name Gurlass Ship Repair Corporation
14 and its address and then it lists LST-1160, all
15 labeling completed in accordance with specifications
16 and additional requirements and it's signed by a
17 person whose signature appears, but at least to me
18 is not readable out loud and his title is first
19 officer.

20 Q Was any of the installation working on LST-1160
21 done on or before August 10, 1972?

22 A No.

23 Q Was any of it done on or before August 13, 1972?

24 A No.

25 Q When the work began, was Stafford Manufacturing

A 186

Moss-direct

131

2 Company operating?

3 A No.

4 Q When you say that you did the work, what do you
5 mean by that?

6 A I mean me, me. I did the work, at least most
7 of it.

8 Q Are you talking about in a physical sense?

9 A Yes.

10 Q Or did you feel a responsibility?

11 A No, physically.

12 Q What actually does that mean, briefly?

13 A I put the plates up. I took the label plates.
14 I had a man working with me, a man from the ship help me, but
15 I put the label plates up. I knew where they went. I had my
16 engineering list and I installed them. I used a Navy foam,
17 a special kind of material on the plates and I put them up.
18 These plates were already in the possession of Surlass. I
19 just took them over and put them up on the ship.

20 Q As far as you were then concerned, whose money
21 was that \$2,500?

22 A Mine.

23 Q Did you take it and put it in your pocket and
24 go home and spend it, yes or no?

25 A No.

Moss-direct

Q What did you do with that money that you believed was yours?

MR. LEVIN-EPSTEIN: Object, absolutely irrelevant.

THE COURT: No, I'll allow it.

Q Mr. Moss?

A I paid it to the people who had worked for Stafford Manufacturing, the money for the last two weeks, to Stafford and I paid that money over to them.

MR. TAIKEFF: Your Honor, pursuant to an earlier sidebar, I would like to interrupt the direct to accommodate two brief witnesses who have arrived, who will be on for a very short period of time.

MR. LEVIN-EPSTEIN: It's okay with me.

THE COURT: While we're getting those witnesses, why don't we come up here while Mr. Engelstein is getting the witnesses.

(Mr. Moss leaves the witness stand.)

(Sidebar discussion between Court and counsel, as follows:)

THE COURT: I think, probably, it would be appropriate in view of the Government's objection for me to give a cautionary discussion to the jury on the disposition of the moneys, solely on the act of

DOS/tk

Cornish - direct

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2 PEARL CORNISH, having first been sworn by the
3 Clerk of the Court, took the stand and testified as
4 follows:

5 THE CLERK: Please state your name and spell
6 it for the record.

7 THE WITNESS: Pearl Cornish, C-o-r-n-i-s-h.

8 MR. TAIKEFF: May I inquire?

9 THE COURT: Yes.

10 DIRECT EXAMINATION

11 BY MR. TAIKEFF:

12 Q Miss Cornish, have we ever met each other?

13 A No.

14 Q My name is Elliott Taikeff. Have we ever
15 spoken on the telephone?

16 A No.

17 Q Did you speak with Mr. Stanley Engelstein, the
18 gentleman with the glasses over there?

19 A No.

20 Q Or anybody from my office or our office?

21 A No.

22 Q Where were you employed in the summer of 1972?

23 A Stafford Manufacturing Company.

24 Q Will you speak up a little bit?

25 A Stafford Manufacturing Company.

Cornish - direct

Q As of August 1972, for how long had you been employed there?

A Sixteen years.

MR. LEVIN-EPSTEIN: Your Honor, may I ask the witness to speak up just a little bit?

You have a sort of soft voice.

THE WITNESS: Sixteen years.

Q Well, when did your employment there end?

A August 1972.

Q If I told you that the corporation was adjudicated a bankrupt August 10, 1972, would that help you in any way pinpoint the day when you last worked there?

A No, I can't pinpoint it.

Q All right. Can you tell us what part of the month you last worked there?

A It was around the beginning or middle of August. I can't remember exactly.

Q When you left after the last time, that is, left work for the last time, did you have any payroll -- or payroll check with you?

A I had -- yes.

Q And did you attempt to cash that check?

A Yes.

Q And did you cash it?

Cornish - direct

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2 A I did, but --

3 Q What happened?

4 A It bounced.

5 Q How many checks bounced?

6 A Two.

7 Q Were they for the last two weeks of work?

8 A Yes.

9 Q What if anything did you do about that?

10 A Well, I was in touch with Mr. Moss.

11 Q Which Mr. Moss?

12 A George.

13 Q Do yousee that gentleman now?

14 A Yes.

15 Q Where is he?

16 A Sitting over there (Indicating).

17 Q Okay. And what happened after you got in touch
18 with him and told him your checks bounced?

19 A Well, he made arrangements to give me cash for
20 the checks.

21 Q And you gave him back the checks?

22 A Yes.

23 MR. TAIKEFF: I have no further questions.

24 MR. LEVIN-EPSTEIN: I believe it is Mr. Sherman's
25 honor if he wishes.

1 I have no questions.

2 MR. SHERMAN: I think your Honor ruled that the
3 Government goes next.

4 MR. LEVIN-EPSTEIN: I have no questions now.

5 MR. SHERMAN: And I have no questions.

6 (Witness excused.)

7 LOUISE CARTER, having been first duly sworn by
8 the Clerk of the Court, took the stand and testified
9 as follows:

10 THE CLERK: Please take the stand and state
11 your name for the record and spell it.

12 THE WITNESS: Louise, L-o-u-i-s-e- Carter,
13 C-a-r-t-e-r.

14 MR. TAIKEFF: May I inquire, your Honor?

15 THE COURT: Yes.

16 DIRECT EXAMINATION

17 BY MR. TAIKEFF:

18 Q Miss Carter, do you know who I am?

19 A No, I don't.

20 Q My name is Elliott Taikeff.

21 Have we ever spoken personally on the telephone?

22 A No.

23 Q Have you spoken with anyone from my office, as
24 far as you know?

25 A I didn't even know you had an office.

Carter - direct

MR. LEVIN-EPSTEIN: I will stipulate that.

Q In August of 1972, where were you employed?

A At the Stafford Manufacturing.

Q As of that time, how long were you employed there?

A For sixteen years.

Q And do you recall the last day you worked?

A I think it was either the last of July or first of August, but I can't remember offhand.

Q And how would you normally get paid?

A Well, I normally got paid by check.

Q Did you get paid by check for the last work you did, for the last week?

A Yes, but the check was bounced so I had to bring it back.

Q But when you brought it back, whom did you see about that subject?

A Mr. George Moss.

Q What happened?

A Well, he paid me but the place was closed so he paid me a little bit like half of the earnings -- he paid me like half of it around about I think it was the first of August. And the second was around the 9th or 10th, something like that.

Carter - direct

Q And might it have been later than that if the place was closed?

A No, I think it was the 9th, but I am not sure. But the place was closed. I met him outside.

Q Okay. You know the place was closed?

A Yes.

Q Now, he didn't give you all the money that was coming to you on the first trip?

A No, he didn't.

Q Did he eventually?

A Yes.

Q How did he pay you? What form was the payment?

A In cash.

Q What did you do with the check?

A I gave it back to him.

Q MR. TAIKEFF: No further questions.

MR. LEVIN-EPSTEIN: Just one or two, your Honor.

CROSS-EXAMINATION

BY MR. LEVIN-EPSTEIN:

Q Miss Carter, did you ever discuss your testimony with anybody before testifying here today?

A No.

Q Nobody at all?

A No.

Moss - direct

Q It was the cash that you then distributed?

A Yes, sir.

Q Cash, not in the form of other checks?

A No, cash.

Q Now, I would like to focus your attention on the subject of count 9, that is a check for \$1,122.43.

You know who issued that check?

A Sperry Gyroscope.

Q Mr. Moss, with respect to that check, is it your claim that the money --

MR. LEVIN-EPSTEIN: Objection. Leading.

THE COURT: Yes, sustained.

MR. TAIKEFF: Could I finish the question?

THE COURT: It is obviously a leading question.

Put it in another form.

MR. TAIKEFF: It doesn't suggest what the answer is, your Honor. I know the whole question.

THE COURT: All right, you take your chances.

MR. TAIKEFF: Yes, your Honor, I am prepared to.

Q Is it your claim that the money represented by that check was your personal money, yes or no?

MR. LEVIN-EPSTEIN: Objection.

THE COURT: Sustained.

MR. LEVIN-EPSTEIN: Clearly a leading question.

Moss - direct

MR. TAIKEFF: Your Honor, my understanding is --

THE COURT: Sustained. Don't argue.

Q Whose money was that?

A That belonged to the Stafford Manufacturing.

Q What did you do with that check -- with the
check?

A I cashed it.

Q What did you do with the money?

A I paid it to the people.

Q When you say the people, what people?

A The employees.

Q As of August 10, 1972, what was the total amount
of unpaid salary or bounced checks of your employees?
Approximately.

A Somewhere between seven to ten thousand dollars.

Q Of your own person knowledge did any of those
people file a claim for any unpaid salary or bounced checks
with the bankruptcy court or with the trustee? Yes or no?

A No.

Q Do you know why they did not?

MR. LEVIN-EPSTEIN: Objection.

THE COURT: Sustained.

MR. TAIKEFF: I asked him if he knows why,
your Honor.

Moss - direct

MR. LEVIN-EPSTEIN: Objection. Clearly an improper question.

THE COURT: Well, if he can answer it yes or no, I will allow it, but that is it.

Q Do you know why? Yes or no?

A Yes.

Q As of right now, did any of those people collect any money from the Trustee?

A No.

Q Did any of those people collect any of that money from the bankruptcy court?

A No.

Q Did any of those people collect their money?

A Yes.

Q How much of their money?

A All of it.

Q Where did they get it from?

A Me.

Q The Government has in the course of its case shown that in addition to the \$1,122.43 there were two other checks. My memory is not precise. But they were in the range of \$200-250 apiece. Where did those checks come from?

A Sperry Gyroscope.

Q Whose money was that?

1 Moss - direct

2 A Stafford Manufacturing.

3 Q What did you do with those two checks?

4 A I cashed them.

5 Q Whose labors earned that money?

6 A The last two weeks of the people who worked at
7 Stafford prior to the adjudication.

8 MR. LEVIN-EPSTEIN: I'm going to object to that.
9 It is a conclusion of this witness. It is not within
10 his competence to say who earned that money.

11 MR. TAIKEFF: I didn't say owned it.

12 MR. LEVIN-EPSTEIN: Earned it, I said.

13 THE COURT: Bear in mind what I said a moment
14 ago about knowledge and fraudulent intent. This proof
15 as to what he used this money for and goes solely to
16 that question. It is a technical matter and not --
17 as a legal matter - this money belonged to the
18 Stafford Manufacturing Corporation, this two hundred
19 and the \$250 check, and the \$1,122.43 Sperry check
20 belonged to Stafford and should have been paid to the
21 Trustee in bankruptcy. On the question of fraudulent
22 intent and knowledge this testimony is being received
23 and for that alone.

24 MR. LEVIN-EPSTEIN: Thank you, your Honor.

25 THE COURT: Go ahead.

15 Moss - direct

2 A Yes, in that area. Not more than sixteen. I
3 think it was between fifteen and sixteen hundred.

4 Q And what was the total amount of money that
5 you gave to the employees in cash?

6 A About ten thousand.

7 Q And by what date did you finish paying all of
8 that off? Just give us a date.

9 A I think in early 1973. But the majority of them
10 were paid by October of 1972, the large amount, the bulk of it
11 I would say.

12 Q As far as you know, is there any former employee
13 of Stafford who worked up to and including August 10, 1972 who
14 has not been paid every penny in wages that was owing? Yes or
15 no? Is there any such employee who has not been paid every
16 penny?

17 A Not to my knowledge.

18 Q Count eleven charges you with -- and I am
19 abbreviating obviously, with knowingly and intentionally and
20 fraudulantly withholding a document, namely, a 1972-73 New York
21 registration of the 1967 GMC truck.

22 Did you ever have that registration in your
23 possession?

24 A No.

25 Q Do you know who had it, if anyone?

16

Moss - direct

1
2 A From the testimony Seifer said he had it --

3 MR. LEVIN-EPSTEIN: Objection.

4 THE COURT: Sustained.

5 Q Other than what you heard in this courtroom?

6 A No, I didn't know who had it.

7 Q Did you do anything to withhold it from Goldhaber?

8 A No.

9 Q Did you ask anyone to withhold it from Goldhaber?

10 A No.

11 Q Did you ask anyone to conceal it?

12 A No.

13 Q To hide it?

14 A No.

15 Q To say it didn't exist --

16 A No.

17 Q -- if asked?

18 A No.

19 Q Count twelve charges you similarly with respect
20 to the 1972-73 registration of the '69 Chevrolet station wagon
21 with a certain identification number.

22 Is that the vehicle that you rented from Moss
23 Associates? Yes or no?

24 A No.

25 Q Did you have it in your possession as far as

17

Moss - direct

you know, except possibly to sign the renewal form, the registration for that vehicle or the truck?

A No.

Q Did you ever do anything or ask anyone or cause anyone to withhold it from Mr. Goldhaber, fraudulantly or otherwise?

A No.

Q As far as you know, and to the extent you may have in any way cause somebody to do something, did the American Identification Products, Inc., the corporation, the entity, ever receive property that had once belonged to Stafford Manufacturing Company, Inc., which, as far as you know, was not purchased at the auction in September of 1972?

A No.

Q When after the auction did you return to the premises of the factory?

A About a week, I would say.

Q At that time what activity took place when you returned?

A On my part or on the part of others?

(continued next page)

1 Moss-direct

2 A Somewhere in the neighborhood of \$700.

3 Q The last count of the indictment charges you
4 with being in a conspiracy with Arnold Rubin. And it says
5 others unknown did knowingly and wilfully commit offenses
6 in violation of the bankruptcy law, or to put it in other
7 words, conspiring to defeat the bankruptcy law.

8 As far as you understand the accusation
9 conspiracy, did you conspire with anyone to do anything?

10 A I did not.

11 Q Now, you heard some testimony, did you not,
12 concerning a Galgan Realty sign?

13 A Yes, I did.

14 Q Briefly, what is the Galgan Realty Company?

15 A It's a real estate corporation.

16 Q Is it a real estate broker or is it --

17 A No, it is just a corporation that owns
18 buildings.

19 Q And does it have -- or I should go back to
20 the past -- in August of 1972 did it have a place of
21 business?

22 A Yes.

23 Q A location?

24 A Yes, an address.

25 Q What was this address?

3 1 Moss-direct

2 A 145 58th Street.

3 Q What was the address of Stafford?

4 A 145 58th Street.

5 Q Were these two different premises?

6 A No.

7 Q Explain briefly to the Court and jury what
8 was the relationship between the Stafford plant and the
9 Galgan location?

10 A It was the same place. As a matter of fact
11 under the Stafford sign there was a Galgan sign. Stafford
12 had the entire premises in 145 58th Street. And on one of
13 the doors it said Stafford Manufacturing, and underneath
14 it it said Galgan Realty.

15 Q Was there any separate portion of that
16 approximately 15,000 square feet that was set aside separately
17 for Galgan Realty that was specifically Galgan?

18 A No, except one drawer of one file cabinet.

19 Q Was there any room, closet area behind a door,
20 whether really set aside for Galgan or not, on which there
21 was a sign that said Galgan?

22 A There was no area set aside for Galgan.

23 Q How many Galgan signs were there altogether
24 at 145 58th Street?

25 A One small Galgan sign under the large Stafford

1 Moss-direct

2 Manufacturing sign.

3 Q I show you Defendant's Exhibit Y for
4 identification -- or I will as soon as I finish showing it
5 to Mr. Levin-Epstein (handing).

6 MR. LEVIN-EPSTEIN: Yes.

7 Q (Continuing) And I ask you if you recognize what
8 is depicted in that photograph.

9 A Yes, that is --

10 MR. LEVIN-EPSTEIN: I have no objection to it
11 being offered in evidence.

12 MR. TAIKEFF: I offer it in evidence.

13 THE CLERK: Defendant's Exhibit Y, photograph,
14 marked in evidence.

15 (Article referred to being a photograph,
16 having previously been marked Defendant's Exhibit Y
17 for identification is now received and marked
18 Defendant's Exhibit Y in evidence.)

19 Q And giving you what is now marked Y in evidence.
20 With a red crayon I ask you whether you can mark -- or first
21 tell us what is in the photograph. I don't think you
22 finished saying that.

23 A It's a picture of a building identified as
24 American Identification Products, Inc.

25 Q And what building is that?

A 204

Moss-direct

1
2 A That is the building formerly occupied by
3 Stafford Manufacturing.

4 Q And what's the address of that building?

5 A 145 58th Street.

6 Q Where was that sign that had the name Galgan
7 on it?

8 A On the left side of the photograph.

9 Q Would you put an arrow in a verticle position
10 with the point of the arrow pointing down, pointing to the
11 door where the Galgan sign was.

12 MR. TAIKEFF: May I just briefly show that to
13 the jury before I ask the question?

14 THE COURT: Yes.

15 (Article handed to jury.)

16 MR. TAIKEFF: Well, while they are looking at
17 that photograph may I inquire about the other
18 photographs -- oh, here they are.

19 THE COURT: While the jury is looking do you
20 mind going ahead and asking questions?

21 MR. TAIKEFF: Not at all, your Honor.

22 Q Now, you put the arrow over a door on tre
23 left-hand side of the picture, is that correct?

24 A Yes.

25 Q What is that door?

1 Moss-direct

2 A That's a door.

3 Q Entranceway to what?

4 A An entranceway to the offices of Stafford --
5 which was Stafford.

6 Q Was there ever any door anywhere in that
7 building, inside or out, temporarily or otherwise, that had
8 a sign Galgan Realty on it other than that front door which
9 led into the office?

10 A No.

11 MR. TAIKEFF: No further questions.

12 MR. LEVIN-EPSTEIN: Your Honor, may I suggest
13 that this might be an appropriate time for the
14 luncheon recess?

15 THE COURT: Yes, I believe so. We will take
16 a few minutes now while the jury gets finished
17 looking at the photograph and then we will take a
18 luncheon recess.

19 All right, ladies and gentlemen, do not discuss
20 the case. Come back at 2:10.

21 (Thereupon at 12:55 o'clock P.M. a recess was
22 taken to 2:10 o'clock P.M.)
23
24
25

CROSS-EXAMINATION

BY MR. LEVIN-EPSTEIN: (Continued.)

Q There's no doubt in your mind, sir, is there, that as far as the Sprry checks that you've just described in your direct testimony, and as described in the indictment, you also had an obligation to turn over to the trustee, right?

A Yes, I did.

Q You had an obligation to turn those over, right?

A Yes, I did.

Q There's no doubt in your mind knowing you had that obligation you didn't turn them over, right?

A I didn't turn them over, no.

Q Knowing you had the obligation, sir?

A Yes, that's right.

Q Would it be fair to say you did that knowingly?

A I knowingly used the checks for the people whom I owed the money.

Q Would it be fair to say you did that knowingly, sir?

A Yes, knowingly.

Q Would it be fair to say you did that intentionally, sir?

A I intended to pay the people I did, sir. I

Moss-cross

1
2 A Yes, I am sure. Not in that way.

3 Q Isn't it a fact, Mr. Moss, that you acting on
4 behalf of American Identification Products arranged for the
5 purchase of that truck? Yes or no?

6 A The transfer of it because they had laid out
7 the money.

8 Q Yes or no.

9 A I arranged for the transfer of that truck.

10 Q To American Identification Products?

11 A Yes I did.

12 Q Whom, sir? Would you care to tell this jury?

13 A The truck was originally in the name of
14 Stafford --

15 Q From whom, sir, was the question.

16 A Stafford.

17 Q You bought it from Stafford?

18 A It was transferred from Stafford to American.

19 Q Directly?

20 A I don't recall, sir, but I do tell you --

21 Q Is there anything that would refresh your
22 recollection?

23 A Yes. it might.

24 Q What?

25 A I don't know. Do you want to show me something?

1
2 Q Mr. Moss, you are the one that says your
3 recollection needs to be refreshed.

4 A You asked me how the truck came to go from
5 Stafford --

6 Q Isn't it a fact, sir, that no fact was ever
7 purchased by American Identification Products from Stafford
8 but rather it was purchased from a nonexistent human being,
9 sir?

10 A No.

11 Q Do you know the name John Maxwell?

12 A Yes.

13 Q Who is John Maxwell?

14 A John Maxwell was a man who existed -- he lived
15 up in New York State.

16 Q What does he look like, Mr. Moss?

17 A He was about 65 years old.

18 Q Is he dead now?

19 A Yes he is.

20 Q Where is he buried?

21 A I don't know.

22 Q Go on, Mr. Moss.

23 A I would like you to hear the circumstances --

24 Q I'm sure the jury would too. Why don't you
25 tell us.

Moss-cross

1
2 A Can I tell you from the beginning?

3 Q Did you ever hear of a man John Maxwell?

4 A Yes.

5 Q Did you ever meet with the man?

6 A I knew Maxwell.

7 Q Did you ever meet with him?

8 A Yes I did.

9 Q Did you meet with him when he assumedly and
10 purportedly sold this truck to American Identification?

11 A No, I did not.

12 Q You did not meet with him then, did you?

13 A No.

14 Q You were not present when the truck was
15 transferred to American Identification Products, sir?
16 Yes or no?

17 A Yes, I transferred the truck to American
18 Products.

19 Q From whom?

20 A From John Maxwell.

21 Q Are you John Maxwell?

22 A No, I am not. But I can tell you the story --
23 I can tell it to you if you want me to tell it. I can tell
24 you exactly.

25 Q Go ahead, Mr. Moss, tell us the story.

Moss-cross

A Starting on August 10th, if I may start with August 10, 1972 -- when I came back to the plant and saw all the material --

Q Just tell us about the truck.

A I decided -- I will tell you if you will just let me tell you the story, sir.

MR. LEVIN-EPSTEIN: I will ask the Court to request Mr. Moss to confine himself to the point.

A (Continuing) If I can tell the whole thing, sir.

THE COURT: What he is asking you, Mr. Moss, is for the details with respect to the transfer of the truck to Stafford. Let me ask you a question because I am a little confused. When this transfer occurred from Stafford to Maxwell was Maxwell around?

THE WITNESS: Yes sir.

THE COURT: He was?

THE WITNESS: He wasn't there at the time. But he was alive. So I would like to tell you the circumstances surrounding that. I can tell it to you, sir.

THE COURT: Was he involved in the transaction itself?

THE WITNESS: No, he wasn't.

THE COURT: He wasn't?

1 Moss-cross

2 MR. LEVIN-EPSTEIN: I am sorry but I didn't
3 hear that.

4 THE WITNESS: He wasn't.

5 THE COURT: He wasn't.

6 Q Who wasn't?

7 A He wasn't.

8 THE COURT: Maxwell wasn't involved in this
9 transaction.

10 Q Are you aure of that, Mr. Moss?

11 A I would like to tell you the circumstances --

12 Q Are you sure of that, Mr. Moss?

13 A Yes.

14 Q No doubt in your mind?

15 A I would like to tell you the circumstances --

16 Q No doubt in your mind, Mr. Moss?

17 A I would like to tell you the circumstances.

18 Q I take it there is no doubt in your mind,

19 Mr. Moss?

20 A I was involved in it.

21 MR. LEVIN-EPSTEIN: Your Honor, I will ask that
22 this document be marked as Government's next exhibit
23 in sequence for identification at this time.

24 THE CLERK: Government's Exhibit 80 for
25 identification.

Moss-cross

(Document referred to was received and marked Government's Exhibit 80 for identification.)

Q I show you Government's Exhibit 80, Mr. Moss, and I ask you did you ever see it before?

A Yes.

Q When was the first time you saw that, Mr. Moss?

A 1972.

Q What was the occasion of seeing this document?

A I filled that out.

Q Would you tell the Court please what you are pointing to when you say you filled that out?

A John Maxwell.

Q You signed John Maxwell's name?

A Yes.

MR. LEVIN-EPSTEIN: I offer it in evidence, your Honor.

MR. TAIKEFF: No objection.

THE CLERK: Government's Exhibit 80 marked in evidence.

(Document referred to having previously been marked Government's Exhibit 80 for identification was now received and marked Government's Exhibit 80 in evidence.)

Q Mr. Moss --

1 Moss-cross

2 MR. SHERMAN: May I see it?

3 Q (Continuing) -- would you show us the power of
4 attorney that Mr. Maxwell gave you?

5 A I didn't have a power of attorney.

6 Q Well, where did Mr. Maxwell --

7 MR. SHERMAN: I am sorry but I wasn't shown
8 the document. I didn't have a chance to object.

9 MR. LEVIN-EPSTEIN: The document was offered
10 in evidence and marked in evidence, your Honor.

11 MR. SHERMAN: I'm sorry, your Honor, but I
12 wasn't shown the document and I didn't have a chance
13 to object or not object.

14 THE COURT: Let him look at it and see whether
15 he has any objection.

16 MR. SHERMAN: I am not saying I have an
17 objection. The document was thrown at me and --

18 THE COURT: Take a look at it.

19 MR. LEVIN-EPSTEIN: May I proceed, your Honor?

20 THE COURT: No, wait a moment.

21 MR. LEVIN-EPSTEIN: All right.

22
23 (continued next page)
24
25

Moss-cross-Levin-Epstein

JI/lfe
3pm/1

MR. SHERMAN: No objection.

THE COURT: All right.

Q Where did Mr. Maxwell live when you signed his name to this document?

A Monroe.

Q Isn't it a fact that the address given on this document for John Maxwell is in truth and in fact the address of Lothair H. Szerlip, your uncle?

A I don't know.

Q Isn't it a fact that this document notarized by Lothair H. Szerlip, your uncle, was signed by you?

A Yes.

Q Not your own name, though, was it?

A No.

MR. LEVIN-EPSTEIN: Ladies and gentlemen of the jury, Government Exhibit 80 in evidence is a State of New York, Department of Motor Vehicles affidavit of sale or transfer.

May I read it to the jury?

THE COURT: Yes.

MR. LEVIN-EPSTEIN: It reads as follows:

Name of seller, John Maxwell. Resident address P.O. Box 792 Quaker Hill Road, Monroe, New York, zip 10950. Vehicle description, 1967 GMC panel truck.

1 Moss-cross-Levin-Epstein

2 C6946F serial number. Color, yellow. Weight, 9,940
3 pounds. Last year of registration on this says 1972
4 in NewYork. Plate number 198664 New York. Name of
5 last registrant, Stafford Manufacturing Company, Inc.,
6 145 58th Street, Brooklyn, New York, 11220. Name of
7 purchaser, American Identification Products -- I'm
8 sorry, strike that, Mr. Barbella.

9 American Identification Company, Inc., at the
10 same address as Stafford. Date of purchase, December 6,
11 1972.

12 On the reverse side of the document, affidavit
13 of seller, and it reads as follows:

14 State of New York, County of Orange. The
15 undersigned being duly sworn says, I am the owner of
16 the vehicle described on the reverse side and have
17 sold it to the purchaser's name thereon.

18 And by Mr. Moss' statement, it is signed by
19 Mr. Moss, the name John Maxwell, and moreover notarized
20 by Lothair H. Szerlip on December 6, 1972.

21 Affidavit of purchaser. We have here the same
22 oath. The undersigned being duly sworn states, I have
23 purchased the above vehicle, signed, American
24 Identification Company, Inc., by R. Gorecki, December 6,
25 1972, also notarized by Lothair H. Szerlip.

Moss-cross-Levin-Epstein

Mr. Barbella, that's L-O-T-H-A-R H.

S-Z-E-R-L-I-P.

Q Now, prior to the time -- by the way, you signed this under oath, Mr. Moss? Mr. Moss?

A I signed that, yes sir.

Q Under oath Mr. Moss?

A Oath to whom, sir?

Q Mr. Szerlip?

A No. I signed the entire thing.

Q You signed all the names to this?

A Yes, I did.

Q You signed Gorecki's name?

A I signed everything.

Q You signed his name as well?

A Yes.

Q Did you sign Lothar Szerlip? Yes or no?

A Yes, I did.

Q Did you give yourself an oath and then violate it by signing someone else's name?

A No. I would like to explain the situation.

Q You will have ample opportunity on redirect.

Q Thank you.

Q Tell me, Mr. Moss, I show you another document and I ask you, did you sign all the names on this affidavit as

Moss-cross-Levin-Epstein

well, sir?

A Yes, I did.

MR. LEVIN-EPSTEIN: I offer it in evidence,
your Honor.

MR. TAIKEFF: No objection.

MR. SHERMAN: NO objection.

MR. LEVIN-EPSTEIN: I offer it in evidence as
Government's Exhibit 81.

THE CLERK: So marked Government's Exhibit 81.

MR. LEVIN-EPSTEIN: For the record, your
Honor, I will describe 81.

THE COURT: Government Exhibit 81 is marked in
evidence.

MR. LEVIN-EPSTEIN: Then I will read it to the
jury.

Ladies and gentlemen, Government's Exhibit 81
in evidence, as you can see, is another affidavit of
the Department of Motor Vehicles. It is entitled,
also an affidavit of sale or transfer. The name of
the seller on this affidavit is the Stafford Manufac-
turing Company. The name of the purchaser is John
Maxwell. The date of purchase is March 17, 1972. The
truck is described by serial number. I won't burden
the record by reading it again. The address for

Moss-cross

in sequence in evidence, your Honor.

MR. TAIKEFF: No objection.

THE CLERK: So marked Government Exhibit 83 in evidence.

Government Exhibit 84 marked in evidence.

(So marked.)

Q Now, Mr. Moss, directing your attention to Government Exhibits 83 and 84, just as there is no -- excuse me -- you wrote all the writing on these two, didn't you?

A Yes, I did.

Q So you forged how many names on those documents, sir?

A There's one, two. There's three names on each document.

Q Three names that you forged on each?

A I am sorry. One is mine. So I am sorry.

Q We will strike the one of your own.

A True.

Q You didn't forge your own name?

A No. I wrote my own name.

Q You wrote all of the names. I am talking about which ones you forged?

A One is mine.

Moss-cross

Q So you forged the name, John Maxwell, on 84 and 83 in evidence, and I see you forged the name, R. Verecci, again?

A Right.

Q And you -- well now, you forged the Lothar Szerlip a couple of times on Exhibit 84?

A I don't dispute the count.

Q You forged the name Szerlip on number 83 and John Maxwell? This is your own name. You didn't forge that, did you? Did you give yourself authority to sign your own name on that one, Mr. Moss?

MR. LEVIN-EPSTEIN: Ladies and gentlemen of the jury, Government Exhibit 83 now marked in evidence, as you can see is another affidavit of sale -- with the Court's permission -- the name of the seller for this 1969 Chevrolet Suburban station wagon, vehicle identification number -- and I will have to bore you with the number once again -- for the record, it is 134469B313953.

And I will represent to the Court that is the same number on the registration.

Name of seller, Stafford Manufacturing Company. Name of purchaser, John Maxwell, post office box 792, Quaker Hill Road. Date of purchase

1
2 for this car from Stafford to John Maxwell is
3 December 4, 1972.

4 As we know now, the affidavit on the back, we
5 have Mr. Moss swearing over the forged isignature of
6 Lothar Szerlip as notary.

7 MR. TAIKEFF: Objection, your Honor. That is
8 inconsistent with the evidence. The testimony was
9 there was no oath taken.

10 MR. LEVIN-EPSTEIN: I am sorry. I will read
11 the document in its entirety.

12 State of New York, County of Kings.

13 I, the undersigned, being duly sworn says, I
14 am the owner of the vehicle described on the reverse
15 side and have sold said vehicle to the purchaser
16 named thereon, Stafford Manufacturing, George S. Moss,
17 president. Sworn to before me this -- and it appears
18 to be obliterated -- 1972.

19 I will represent to the Court that that matter
20 will become part of the evidence in this case.

21 Lothar H. Szerlip, and the notary stamp and
22 seal.

23 Q By the way, Mr. Moss, where did you get the
24 stamp and seal to sign this affidavit?

25 A I had it.

Moss-cross

Q You had it from him?

A Not from him. It was left in the office and I used it.

Q You are a notary?

A No, I am not.

Q Mr. Moss, is your name also Lothar H. Szerlip?

A No. I signed Mr. Szerlip's name.

Q You forged Lothar H. Szerlip's name?

A You want to consider that I did.

Q No. I am not considering. That's what the law is.

MR. LEVIN-EPSTEIN: Affidavit of purchaser.

I, the undersigned, being duly sworn, purchase that vehicle, and signed by Mr. Moss forging the name, John Maxwell over the sworn affidavit of the notary, the affidavit of Lothar H. Szerlip, sworn to before me, purportedly by Lothar H. Szerlip.

Q Now, Mr. Moss, whenever you have been asked about the sale or the purchase of either this truck or this car, you have always been perfectly candid in the past, have you not?

A Yes.

Q There's never been a time when you ever told anything but the whole truth and nothing but the truth,

Q When you received an oath imparted to you under penalty of perjury, do you recall being asked this question and giving the following answer on April 5, 1973:

MR. LEVIN-EPSTEIN: I will read a number of questions and answers, if it please the Court.

MR. TAIKEFF: Could we have an identification of the document being read from?

MR. LEVIN-EPSTEIN: Your Honor, the document is a certified copy of a transcript obtained from the U.S. District Court, Eastern District of New York, bankruptcy court, in the matter of Stafford Manufacturing Company, April 5, 1973. If the Court wishes to examine it, it is a certified copy.

THE COURT: No. Go ahead.

Q "Question: Stafford Manufacturing owned automobiles; is that correct?"

And you answered, "Yes, at one time it did."

I will skip ahead a bit. Were you asked this question and did you give this answer:

THE COURT: Do you want a reference? Do you have a copy?

MR. TAIKEFF: I do not.

THE COURT: Do you want to follow by reading over his shoulder?

Moss-Cross

MR. TAIKEFF: I can listen to it, your Honor.

Thank you.

Q "Question: Which automobiles did they own?
Describe them.

"Answer: They owned a truck and a station wagon.

"Question: What happened to the truck? What kind of a truck and what kind of station wagon?

"Answer: 1967 truck, panel truck.

"Question: What kind?

"Answer: Chevrolet panel truck.

"Question: What year?

"Answer: 1967 and 1969 station wagon."

Were you asked those questions and did you give those answers, sir?

A Yes. If that's what it says.

Q "Question: What kind?

"Answer: Chevrolet. I am sorry. I think it was a GMC."

And so on with that.

Were you asked that question and did you give that answer?

A If that's what it says, that's what I did.

Q "Question: And what happened to these vehicles?

Moss-cross

"Answer: They were sold in 1972.

"Question: When in 1972?

"Answer: I think in February, April of '72.

"Question: To whom?

"Answer: To a party who came and wanted to purchase them, but I might point out that both were in very --

"Question: Answer my question.

"Answer: I can get you the name. I don't know the name. My brother sold them."

Were you asked those questions and did you give those answers? Yes or no?

A Yes. If that's what is on there, I said it.

Q Are you telling us now, sir, that at that time in April of 1973, you didn't know that you sold the truck to John Maxwell, sir?

A Both the answers I gave there --

Q Were you lying then, sir?

A I wasn't telling the truth there.

Q Is that a lie when you don't tell the truth?

A Yes, it is.

Q So you perjured yourself, sir; isn't that right?

A It's a harsh word.

Moss-cross

Q It sure is. Did you perjure yourself then,
Mr. Moss? Yes or no?

A Yes.

Q Under oath given to you in a District Court
just as the oath was that you received here by the same
court that you received the oath before Mr. Taikeff called
you as a witness, you knowingly and willfully and
intentionally misled and lied; right or wrong? Yes or no,
sir?

A No, I did not intentionally mislead.

Q Did you lie, Mr. Moss?

A Yes, but -- but --

Q Thank you.

A But for a right purpose.

Q According to George S. Moss, no doubt?

A Yes, sir, I think so.

Q Was the purpose greed, Mr. Moss?

A No, it was not greed, sir. It was not greed.
It was a foolish regard for others, perhaps, but not greed.

(continued next page)

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25/112.

2 Q Mr. Moss, after the truck and after the car was
3 sold to John Maxwell or whatever name you used--

4 A They weren't sold to John Maxwell.

5 Q So you perjured yourself in these affidavits?

6 A I told you they weren't sold to John--

7 Q You perjured yourself twice in Government exhibit

8 83, correct?

9 MR. TAIKEFF: Objection, your Honor, there was
10 no oath administered.

11 THE COURT: Beg your pardon?

12 MR. TAIKEFF: I said there was no oath
13 administered.

14 The questioner is using --

15 MR. LEVIN-EPSTEIN: I'll rephrase.

16 Q You lied in Government's Exhibit 83 twice,
17 right, Mr. Moss, and you lied twice in Government exhibit 84,
18 right, Mr. Moss?

19 A If you want to consider it that, yes.

20 Q Right or wrong, Mr. Moss?

21 A Yes, I lied.

22 Q You lied twice in Government's exhibit 81,
23 right, Mr. Moss?

24 A (No response.)

25 Q Right?

Moss-cross

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A If you want --

Q You lied twice in Government Exhibit 80?

A If you want to consider it.

Q We know you perjured yourself in the Bankruptcy Court at least once.

A I don't consider I did.

Q Perjury --

A I don't consider I did.

Q Mr. Moss, where was the truck after John Maxwell supposedly bought it from you, it was still used by Stafford, right?

A The truck was used by Stafford until August 11th.

Q At which time it was concealed, Mr. Moss?

A No, it was not concealed. It was not concealed, sir.

Q Mr. Moss, you've already acknowledged these four checks to the S&M Fuel Oil Company; is that correct?

A That's right.

Q Do you also acknowledge that these checks were paid by your wife at your instructions?

A Yes.

Q And at your desire?

A Yes.

31

2

Q And in your behest?

3

A Yes.

4

Q With your intention in mind to pay S&M off

5

for the rental of this truck, 30 odd miles away from

6

Stafford, sir?

7

A To pay S&M Fuel Oil.

8

Q Fuel Oil?

9

A They were made to pay S&M Fuel Oil.

10

Q For fuel oil, sir?

11

A No.

12

Q For rental space?

13

A Rental space for the truck.

14

Q The space of this Stafford Manufacturing

15

truck?

16

A Stafford Manufacturing truck; that's correct

17

Q The yellow and/or blue truck, right?

18

A The yellow truck.

19

Q Was it yellow all the time, Mr. Moss?

20

A It was yellow while it was there.

21

Q Yellow while still hidden --

22

A It wasn't hidden. It was left there.

23

It wasn't my intention to hide it.

24

Q Did you find it necessary to use a better

25

truck for that period of time, at that time you went out

41
2 to spend money for trucks?

3 A I found it necessary to use other trucks to
4 the tune of over three thousand dollars.

5 Q To the tune of three thousand dollars, sir,
6 you didn't use this truck at all, right, (Indicating)?

7 A Not a truck that wasn't worth anything.

8 Q Wasn't worth a thing?

9 A Not a thing, but much less.

10 Q How much less, sir?

11 A That truck probably wasn't worth anymore
12 from \$800 to a thousand dollars, tops. I didn't do it for
13 that purpose.

14 Q Of \$800 to a thousand dollars, sir, would
15 you tell us on what day, whatever the value of the truck,
16 would you tell us, sir, on what day you told Judge Price
17 or anybody in the Bankruptcy Court about these forgeries?

18 A I didn't tell Judge Price.

19 Q Of course not.

20 A SPEAKER: Did you tell anybody about
21 the perjury you committed?

22 A I didn't tell them.

23 Q Did you tell Judge Price about the stationwagon
24 going anywhere, sir?

25 A I wasn't aware of the location.

Q Did you tell Judge Price about the truck going to S&M at all?

A No.

Q Who did you tell?

A No one.

Q Did you tell Arnold Rubin?

A To locate a spot? That's all I told him.

Q He knew nothing about your opinion of the fact you were in Chapter XI?

A He knew we were in Chapter XI.

Q Also knew you were in financial difficulties, didn't he?

A I'm sure he knew that.

Q He also knew, sir --

MR. SHERMAN: The witness is incompetent to say what this man knows.

Q Did you have any conversation --

MR. SHERMAN: I'm entitled to a ruling.

THE COURT: This witness, of course, doesn't know unless he had a conversation with him.

MR. LEVIN-EPSTEIN: I'm sorry.

THE COURT: Objection sustained.

Q Did you ever have a conversation with Mr. Rubin about the Chapter XI Proceedings?

Moss-Cross

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2 A No, not specifically.

3 Q Did you ever have a conversation with Mr.
4 Rubin about financial straits and difficulties, in which
5 you found yourself?

6 A He knew we have financial difficulties.

7 Q He was a relative --

8 MR. SHERMAN: Objection.

9 THE COURT: The question was did he ever have
10 a conversation?

11 THE WITNESS: I don't recall specifically, sir,
12 having a specific conversation about our financial
13 difficulties as such.

14 THE COURT: How did he know?

15 THE WITNESS: He might have known we were
16 struggling. He knew we were struggling, possibly.

17 THE COURT: How?

18 THE WITNESS: From general -- the general
19 situation.

20 THE COURT: What general situation?

21 THE WITNESS: We were struggling in the
22 business.

23 THE COURT: How did he know?

24 THE WITNESS: I don't know exactly how he knew,
25 sir.

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MOSS-CROSS

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THE COURT: Strike it out.

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MR. SHERMAN: Might we have a direction to the

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jury?

5

THE COURT: To the extent that he is surmising

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they must disregard it.

7

Q When did you tell Mr. Goldhaber the truck was

8

out in S&M?

9

A I didn't tell it to Mr. Goldhaber.

10

Q Did you tell anybody at the creditor's

11

committee?

12

A No.

13

Q Did you tell any of the creditors?

14

A No.

15

Q Did you tell anybody at all?

16

A (No response.)

17

Q Besides S&M?

18

A (No response.)

19

Q Yes or no?

20

A My brother knew it was out on the Island.

21

Q Your brother Nat?

22

A He knew of it, yes.

23

Q Did Nat tell the trustee?

24

A No.

25

Q Did Nat tell Mr. Goldhaber?

Moss-cross

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2 A I don't know. He never spoke to him.

3 Q What was the value of the American
4 Identification Truck, sir, and when I say "The American
5 Identification Truck" I mean the blue truck. What was the
6 value of that when it was purchased or transferred or how-
7 ever you want to characterize it by AIP?

8 A You want an opinion? I would say eight
9 hundred to a thousand dollars.

10 Q No more than that?

11 A No.

12 Q No question in your mind?

13 A That's my opinion.

14 Q Isn't it a fact when you applied for your
15 insurance you told the insurance company it was worth in
16 excess of \$3,000, sir?

17 A You have to fill out certain forms.

18 Q Yes or no.

19 A Yes, we did. That's a form.

20 You have to fill out to show book value at
21 a certain time. That does not refer to the real value.

22 Q You lied then, too?

23 A I didn't lie.

24 Q You're lying before the bankruptcy court?

25 A (No response.)

MOSS-CROSS

9 1

2 Q Right?

3 A (No response.)

4 Q Wrong? Tell me if I'm wrong.

5 A Specifically with reference to what, sir?

6 Q That you didn't know who had the truck, for
7 example. For example?8 A I did not tell the Bankruptcy Court who had
9 the truck.

10 Q Or the car?

11 A Or the car.

12 Q You know, Mr. Moss, that as a debtor in
13 possession you are acting just as a trustee, right?

14 A Yes, to a degree.

15 Q You know, Mr. Moss, don't you, that as a
16 debtor in possession you had a legal obligation to preserve
17 the assets of the debtor in possession whose Estate just
18 as a trustee?

19 A Yes.

20 Q And to this date you know that, don't you?

21 A I know that. No one worked any harder than
22 I did to preserve it. I created funds for the creditors
23 and for the people and for the Estate. To this time, I'm
24 doing it.

25 Q Is one of the ways you created the funds, Mr.

Moss-cross

Q Mr. Waikoff will probably ask you that.

A Yes, I consider that for practical purposes, the same as the set of books when you're paying people, getting receipts and they put in no claims.

Q Is that what you meant, sir, on February 17th, of 1972, when you testified under oath before the Bankruptcy Court when you were asked this question and when you gave the following answer or did you give this answer to this question?

"Question: Mr. Moss, do you know anything concerning the substance of what I know the witness has said. Please advise the Court but only those things you know of your own knowledge, not something you heard that maybe hearsay or information that people have mentioned, anything that relates to his testimony that you have knowledge of. We would like to hear.

"Answer: As the direct head of organization of Stafford Manufacturing Company I can categorically state that we pay no one off the books; that the employees are paid as a matter of record."

Did you say that, sir?

A February, 1972?

Q That's different than now, isn't it?

Moss-cross

A Wait a minute. We're talking about a different period of time. I understand you to be talking about the payments I made ending August 10th, 1972. For those two weeks. That's what I was referring to.

Previous to that we kept records on the books. As far as I am concerned, we always kept book records. They may have been somewhat irregular, but we certainly kept records. We had records of receipts we paid the people.

(continued next page)

THE WITNESS: Mr. Levin-Epstein had me as the Statue of Liberty. I didn't do it quite like that.

Q How did you do it?

A I used the copies of the engineering reports which showed me the location of the plates. I put them on the valve wheels, put them on the bulkheads. I put them on the ventilators. I put them on the fire plugs. I put them on the air escapes. I put them on the fire extinguishers and I put them on the equipment.

Where required, operating as safety precautions, there were approximately 600 or 700 plates which I put on. I did get some help from a couple of the sailors aboard the ships.

Q You paid them?

A Yes, I did.

Q You told the Bankruptcy Court how you paid them?

A I didn't have to tell the Bankruptcy Court anything. It wasn't the Bankruptcy Court's money. It was my money. That was done after the adjudication, had nothing to do with Stafford Manufacturing, nothing, sir.

Q When were these plates manufactured, Mr. Moss?

A The plates were manufactured and paid for

Moss-cross

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2 by Surlass well before the bankruptcy.

3 Q Of course, money went to the bankruptcy?

4 A Yes, it did.

5 Q Did you tell the Bankruptcy Court anything
6 about the receipt of these checks saying to anybody in the
7 Bankruptcy Court "Listen, Judge, I'm a little concerned
8 about this because it may look a little bad because these
9 checks are made to Stafford. I want you to know this is
10 my money. I have a good -faith belief in it. I want to
11 be right on record, upfront, candid with everybody. This
12 is my money, Judge. If there's a right way to do it, would
13 you please advise me?" Did you ever have a conversation
14 with anybody?

15 A No, I didn't expect that I would have to.
16 This work was done after the bankruptcy. There's no
17 question about it, sir.

18 THE COURT: Let me ask you a question.

19 THE WITNESS: Yes.

20 THE COURT: Having done it after the bankruptcy,
21 did you ask Surlass to make out back to George
22 Moss?

23 THE WITNESS: Yes, but as a matter of fact
24 I wanted the order written up differently, but
25 Mr. Surlass explained to me that all their contracts

Moss-cross

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2 were approved by the Navy and once a contract was
3 issued to a company they had to maintain the same
4 company name. They had to do it that way.

5 I said "Can't you make it to Stafford Marking
6 Company?" He said, "No, George, the order is written--
7 Mr. Moss --" whatever he called me. "The order is
8 written to Stafford Manufacturing Company and I have
9 to go that way."

10 Q That's the reason you took it to the H&S
11 Check Cashing Company instead of Mr. Goldhaber?

12 A I took it to H&S because it didn't belong to
13 Goldhaber.

14 Q Who did it belong to?

15 A George Moss.

16 Q The benefactor of the employees?

17 A It went to the people, not the benefactor.
18 I just owed them the money. They were my benefactors,
19 just as well as I was theirs. I owed them the money. I
20 was determined to pay it, whether it's comical to you or not,
21 Mr. Levin-Epstein.

22 Q No, I don't feel it's comical.

23 A I'm sorry, sir, I just -- he just grimaces
24 at me, makes it appear it's a big joke, which it wasn't.

25 MR. LEVIN-EPSTEIN: I don't believe so, your

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TRANSCRIPT DATED
DECEMBER 16, 1976.

Moss-cross

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2 were of figuring out a means of euchring, phonying up documents
3 to back up the perjury you committed in the Bankruptcy Court?

4 A You are partially correct, not all correct. I
5 didn't seek to hide the trucks.

6 MR. LEVIN-EPSTEIN: Your Honor, please?

7 THE COURT: Go ahead.

8 Q In component parts, did you phony up these
9 documents?

10 A Yes.

11 Q In component parts, did you phony up this
12 document after you were accused of hiding the truck, yes or
13 no?

14 A No.

15 Q You were not accused of hiding the truck?

16 A No.

17 Q By the attorney for the trustee?

18 A No. I was asked about the truck. Either I
19 had the alternative of abandoning it or taking it to the
20 trustee and -- which is a mortifying thing to do or I felt
21 well, I had already speant six to eight thousand dollars of
22 my own money.

23 Q Mr. Moss, please try to confine the answers?

24 A I rationalized I was entitled to it. In my
25 fright and panic I did what I did.

MOSS-CROSS

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2 A (No response)

3 Q You remember being indicted?

4 A Yes.

5 Q You remember the day you appeared before this
6 Court and the indictment was read to you, Mr. Moss?

7 A Yes, I do.

8 Q That was June 1 of 1976, was it not?

9 A Whatever it was.

10 Q Shortly thereafter?

11 A Sometime then.

12 Q It was on that day among other things, the
13 counts with respect to the forklift truck were read to you
14 and explained to you by your attorney; isn't that correct,
15 sir?

16 A Yes.

17 Q You had counsel on that day, didn't you?

18 A Yes, I did.

19 Q And you knew exactly what you were charged
20 with, didn't you, Mr. Moss?

21 A I knew what the indictment says.

22 Q You knew all about the fact this forklift truck
23 was charged as having been concealed by you feloniously,
24 illegally, right?

25 A I understood the charge, right.

Q Right, you knew that?

A I knew the charge.

Q Would you tell this jury what efforts you made if any after June 1 of 1976 to show that you had no knowledge about any felonious contact with this truck?

MR. TAIKE : Objection, he's asking him how he and his counsel prepared this case.

MR. LEVIN-EPSTEIN: No, I'm not, your Honor.

THE COURT: Sustained.

Q Tell us this, Mr. Moss: The date that you were indicted did you come to the FBI, say "look, this is the explanation of this truck"?

MR. TAIKEFF: That's highly objectionable. He has no obligation once he is indicted --

THE COURT: sustained, you don't have to argue. I sustained your point.

MR. TAIKEFF: I understand that. I'm trying to counteract the impact of the question.

MR. LEVIN-EPSTEIN: I ask this be marked --

THE COURT: I already instructed the jury the defendant does not have to produce any evidence and I'm going to reinstruct them to that effect in my charge.

MR. TAIKEFF: Thank you, your Honor.

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MOSS-CROSS

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Q You were questioned, were you not, by , by Mr. Taikeff on direct examination with respect to, I believe he said Count 11 and 12 respecting the documents, the new '72 registration of the vehicles; do you recall that, sir?

A Yes.

Q You said on direct examination, did you not, that you never had them in your possession, correct?

A Yes, sir.

Q Isn't that right?

A Certainly I never had them, never had it -- either one.

MR. TAIKEFF: That wasn't the question I put to him. I said except at the time he signed them, put his signature on.

THE COURT: I think he qualified his answer. That's for the jury to recollect, not you and me.

Q Government Exhibit 17, that's the registration for the truck, isn't it (handing) in Stafford's name?

A (no response)

Q Right?

A Yes.

Q You never had that in your possession, right?

A (no response)

Q Except when you signed it George Moss, President?

Moss-Cross

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2 A Yes.

3 Q Immediately after you signed that Mr. Moss,
4 you of course forgot it existed, right?

5 A I dont recall I forgot it existed.

6 Q Is your testimony, you don't remember forgetting
7 Mr. Moss?

8 A (no response)

9 Q What are you saying?

10 A I say I signed it. I would never keep possession
11 of truck registrations.

12 Q In fact, sir, the regular practice of Stafford
13 Manufacturing under your control was that Mr. Seifer would
14 keep it, right?

15 A I don't know. I had nothing really to do with
16 the registration whatsoever. I just sign them and that was
17 it.

18 (cont'd on next page)
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2 A (No response)

3 Q Did you ever tell anybody something else?

4 A (No response)

5 Q Sir, my recollection -- I don't know --

6 Q Is there anything that would refresh your
7 recollection?

8 A No.

9 Q You're sure?

10 A You have something to show me?

11 Q Is there anything else that you can think of
12 to refresh your recollection, Mr. Moss, perhaps a letter
13 or anything you like?

14 A Unless you show it to me I wouldn't know.

15 Q Isn't it a fact, sir, on a prior occasion
16 you told somebody when questioned about those materials that
17 nothing was ever removed from that plant prior to
18 adjudication, isn't that correct?

19 A I meant nothing of Stafford, nothing of
20 Stafford Manufacturing Company.

21 Q Mr. Moss, you recall testifying in the
22 bankruptcy court on April 5th of 1973?

23 A If I did. I don't recall the date but if you
24 have it there, I testified.

25 Q Under oath, sir?

A Yes, under oath.

Moss-cross

Q Do you recall being asked these questions and giving the following answers, sir? I'll read a series of questions and answers. If you just simply say yes or no at the end, we would appreciate it.

"Question: Now, prior to your adjudication -- when I say "your" I mean Stafford, of course -- did you remove any property at all from the premises?

"Answer: No sir."

A That's right, no sir.

Q "Question: Was any property removed at any time from the premises by anyone?

"Answer: Working for Stafford?

"Question: Well, either working for Stafford or not working for Stafford.

"Answer: No, the only property removed was the property removed by the sale."

Did you give that answer to that question?

A Yes, I did.

Q "Question: So that when the bankrupt was adjudicated, everything that was originally on the premises remained on the premises, right?

"Answer: At that time, yes."

A Belonging to the bankrupt.

Q You didn't tell them that, did you?

Moss-cross

A I had no intentions. That was none of anybody's business. That was a purely private affair and no one was entitled to know that.

Q Including --

A No one, no one, sir.

Q -- Mr. Moss, would you please wait for my question? That includes, in your opinion, somebody who asked you specifically was any property removed at any time from the premises by anyone and you took the position, sir, that that was nobody's business under oath?

A They were only making reference to Stafford property.

Q You perjured yourself again?

A I did not. Just because you yell at me that doesn't make it so. I did not. They only were questioning me about Stafford Manufacturing property, that was the import of it.

Q Mr. Moss, in light of the answer you've just given, did you ever at any time give anybody in the Bankruptcy Court or anybody for that matter a different explanation of how this property came away from Stafford than you gave here in court under oath? Yes or no.

A I didn't discuss it with anybody or didn't ask, because it was not the purpose of the request.

1 Q Thank you.

2 A They merely wanted to know about Stafford
3 Manufacturing property any more than I moved my own clothes.

4 Q Were you asked this question and did you give
5 the following answer, sir:

6 "Question: Do you recall that there was on
7 the premises at the time you executed a lien to
8 United Credit and FCM Model 33 Electromatic Copy?

9 "Answer: I don't recall. It might well have
10 been, sir.

11 "Question: Was that taken out?

12 "Answer: No sir.

13 "Question: Do you know where it is now?

14 "Answer: No, I don't know anything about it."

15 Were you asked those questions and did you give
16 those answers on April 5th of 1973?

17 A If the question was there, I answered it.

18 Q The answer is "Yes"?

19 A Yes, I answered the question.

20 Q "Question: Do you know that it was not
21 included in the auction sale held by Mr. Wein?

22 "Answer: I do not know that at all."

23 Did you give that answer?

24 A If that's it.

25 Q "Question: Do you recall Stafford owning that

Moss-cross

item?

"Answer: I recall that Stafford had a copier. I don't know which model it was. I also believe that a copier was sold at the sale, but I'm not sure."

Did you give that answer to that question?

A Yes.

Q "Question: Did Stafford own an IBM typewriter?"

"Answer: Stafford owned IBM typewriters, yes, at one time."

Did you give that answer to that question?

A Yes.

Q Please, Mr. Moss, as I read say yes or no as we go through the questions to save time.

"Question: Can you tell us what happened to the IBM typewriter?"

"Answer: I don't know anything about that, sir. I thought they were sold at the sale. I do not want you to know that once the Fein organization took over Stafford had nothing to do with it. I also want you to know that when they took over, different times I noticed them passing the factory that the doors were open."

Did you give that answer, sir?

A Yes, I did, in passing the factory.

Moss-cross

BY MR. LEVIN-EPSTEIN:

Q Did you give this -- were you asked this question and did you give this answer?

"Question: I show you a schedule of equipment not on the premises as of the date of the sale prepared by Martin Fein and Company, Inc., which I ask you to look at and tell me whether you have any knowledge with respect to any of the items on this schedule, as to what happened to each of these items?

"Answer: I'm not familiar with a number of those items, sir, and I don't know. As far as -- I don't know where they are or what happened.

"I do know that the plant had been left open at different times before and well before --

"Question: What do you mean left open? By whom?

"Answer: Well, there were crews working in the plant prior to the sale, prior to the adjudication.

"Question: Whose crews?

"Answer: Stafford."

Did you give those answers to those questions, sir?

A Yes, I did.

Q Isn't it a fact, sir, that the purpose of your

A 252

Moss-cross

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2 statements there were to impress upon the Bankruptcy Judge,
3 while you were under oath, that there was probably a theft
4 of those things?

5 A There were thefts. During the --

6 Q Isn't that your explanation of why those things
7 occurred, a theft?

8 A There were thefts, I want you to know, and
9 pilfering on a continuing basis.

10 Q You reported all of this pilferage to the
11 police?

12 A Have you ever tried reporting pilferage?

13 Q Yes or no?

14 A On many occasions.

15 Q You did?

16 A On occasions, we reported thefts and some
17 pilferages we couldn't report because we found it a day or a
18 week later. We had some disaffection and little objects
19 kept on walking out.

20 Q A question --

21 A Every plant has that.

22 Q The question --

23 A I can't help that.

24 Q "Question: Were any of these thefts reported
25 to the police?

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telling you what happened.

Q You're freely acknowledging that this is the truth?

A I told you that I received checks of Stafford Manufacturing Company.

Q I see, sir.

A I thought I had a higher duty by paying the people.

Q Thank you, Mr. Woss, I didn't ask you.

Were you asked the questions that I am about to read to you and give the following answers, sir, under oath before the Bankruptcy Court under pains and penalties of perjury on November the 15th of 1974?

Question: So you're not aware that you received any checks for Stafford Manufacturing after --

Answer: I don't know. If you refresh my recollection, maybe I can give you an answer.

Question: Did you do business with F. & M. Manufacturing Company at 745 Old Willis Path?

Answer: I don't recall. What year are you referring to?

Question: 1973.

Answer: We may well have. F & M? Old Willis Path where?

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"Question: Pardon me?

"Answer: Old Willis Path where?

"Question: Hauppauge.

"Answer: I think we made some nameplates for them in 1973.

"Question: You made some nameplates?

"Answer: Yes .

"Question: Now, American Identification.

"Answer: Or Stafford Marking, or using the name Stafford Marking, but American Identification Products.

"Question: Using the name Stafford Marking?

"Answer: Right.

"Question: And the check you received was deposited in the American Identification account?

"Answer: Yes.

"Question: Did you do any work for Western Electric in 1973?

"Answer: Yes, different phases of Western Electric."

So far did you give these answers to those questions?

A Yes.

2 "Question: The Gofford Center in Greensboro, North Carolina?

Moss-cross

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2 "Answer: I think some years, yes, we've done
3 in the last year or so, the last two years or so.

4 "Question: Would you have done business with
5 them under the name of Stafford Manufacturing, Stafford
6 Marking?

7 "Answer: In '73 it would be Stafford Marking.
8 Excuse me. Late '72, '73 would be Stafford Marking.

9 "Question: Stafford Marking. And you're sure
10 there was never any confusion between Stafford
11 Manufacturing and the Stafford Marking?

12 "Answer: I didn't say that, lady. I just said
13 to the contrary; I said there was.

14 "Question: On the part of the people who were
15 sending checks?

16 "Answer: And there was -- we attempted to
17 straighten it out. And I think if you're referring to
18 a -- now, if I recall, one Western Electric matter, it
19 was called to my attention and we -- it was corrected
20 and the payment was made to Mr. Schneider for money --
21 I think it was incorrectly received from one Western
22 Electric order, which I think predated the
23 adjudication, predated the adjudication and -- I don't
24 know whether we partly made it afterwards or partly
25 before, and Mr. Schneider made comment about it, and I

2 finally decided that I didn't want any problems or any
3 confusion, so I paid money to Mr. Schneider totaling
4 the money received for Stafford Manufacturing, so it
5 would not become an issue. I totally paid the money
6 to Mr. Schneider, totaling the money received from
7 Stafford Manufacturing."

8 Were you lying under oath at that time?

9 A No, I was not lying under oath. I was talking
10 about Western Electric, just as you have it there. Don't
11 try to put anything else in it.

12 He was referring to Western Electric and we did
13 make a shipment to Western Electric afterwards as well and
14 there was confusion about it. So I immediately, when
15 Mr. Schneider called it to my attention, paid him back on
16 Western Electric, even though I felt that Stafford Marking had
17 made a replacement and should have been paid that money.

18 Q Tell me, Mr. Moss, if you were so concerned
19 about confusion, if you were so concerned about errors being
20 made, did you think, anywhere in the recesses of your mind,
21 that you might possibly be doing the most prudent thing by
22 going to the trustee or to the Court and saying now listen,
23 this money is mine? I'm going to keep it? What do you
24 think?

25 Did you ever do that once, sir; yes or no?

10 1 and excerpt from the Grand Jury testimony of Arpad
2 Seifer given apparently on January 26, 1976. I
3 intend to read, your Honor, from Page 42, line 5 to
4 Page 44, line 10. Questioning by Mr. Lefin-Epstein.

5 "Question: Did there come a time, Mr. Seifer,
6 when you had a conversation with a man known to you as
7 Chuck?

8 "Answer: Yes.

9 "Question: Who is Check?

10 "Answer: The shipping clerk, receiver.

11 "Question: At the Stafford Manufacturing
12 Company?

13 "Answer: Yes.

14 "Question: Do you know his real name?

15 "Answer: Raymond Gorecki.

16 "Question: When did this conversation occur?"

17 And it says here in parenthesis:

18 "No response."

19 Next question:

20 "Question: When did you have this conversation?

21 "Answer: When he take off everything, the
22 machinery.

23 "Question: In other words, Mr. Gorecki had
24 also removed machinery from the place?

25 "Answer: He helped us.

11 1 "Question: What did Mr. Gorecki tell you
2 about his removing that machinery?

3 "Answer: He don't see nothing. He don't
4 want --

5 "Question: Let me ask you this, did he tell'
6 you he had spoken with Nat Moss?

7 "Answer: Yes, he did.

8 "Question: Did he tell you that Nat Moss told
9 him that he wanted the stuff removed from the
10 Stafford Manufacturing Company factory?

11 "Answer: Yes.

12 "Question: Did he tell you what Nat Moss told
13 him was the reason to remove it?

14 "Answer: No.

15 "Question: Let me ask you this: When you
16 spoke with Chuck, did Chuck tell you that Nat Moss
17 told him that the reason that the material was being
18 removed from the factory was that, so that it won't
19 be there when the people from the Bankruptcy Court,
20 the people came to look for it?

21 "Answer: Yes.

22 "Question: Did that conversation occur after
23 you had removed some of this material. Is that when
24 you had the conversation in August of 1972?

25 "Answer: Yes.

12 1 "Question: When you heard that Nat Moss
2 wanted this stuff removed so that the Bankruptcy
3 people won't see it, what did you say, if anything?

4 "Answer: I don't say nothing. I figure he
5 moved it away from the shop.

6 "Question: There is no doubt in your mind --
7 let me finish my question. All right?

8 "Answer: All right.

9 "Question: There is no doubt in your mind
10 that Chuck or Raymond Gorecki who was an employee of
11 the Stafford Manufacturing Company at that time told
12 you that at Nat Moss' instructions, this material
13 was being removed in order not to have it there when
14 the people from the Bankruptcy Court came to look.
15 Isn't that right?

16 "Answer: Correct. Right."

17 M A R I O D E F I N A , called as a witness on behalf
18 of the Defendant, was duly sworn by the Clerk of
19 the Court, and was examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. TAIKEFF:

22 MR. TAIKEFF: May I inquire, your Honor?

23 THE COURT: Please do.

24 Q Mr. Defina, do you know George Moss?

25 A Yes, I do.

1 MR. NATHAN MOSS: Ye .

8 2 THE COURT: You understand your Fifth Amendment
3 Rights?

4 MR. NATHAN MOSS: Yes.

5 MR. LEVIN-EPSTEIN: The Government is aware of
6 the provisions of Title 11, U.S. Code, Section 25,
7 Subdivision 10, as amended which provides for an immunity
8 for persons in Mr. Moss's position in a bankruptcy
9 situation. Up to and including this moment, I have not
10 nor has anybody in my office had any contact whatsoever,
11 avoided contact in fact, in any way with Mr. Nathan
12 Moss's testimony in Bankruptcy Court.

13 THE COURT: There is no immunity here. He's
14 testifying on behalf of his brother.

15 MR. LEVIN-EPSTEIN: I want that clear on the
16 record, your Honor.

17 (The jury entered the courtroom at 12:47 p.m.)

18 (Continued next page)
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N. Moss - direct

A Yes.

Q Did you purchase any Benchmaster power presses?

A Yes, we did.

Q Do you know how many?

A Seven of them.

Q How many did you have in 1969?

A Seven.

Q How many did you have between 1969 and 1972?

A Seven.

Q Could you say or are you able to say of your own personal knowledge what are the serial numbers of the seven pieces of machinery?

A From memory, no, I can't give you the serial numbers.

Q Did you look at the serial numbers when you made the purchase?

A no.

MR. TAIKEFF: Your Honor, I would like to have marked as a group this group of papers previously -- a copy supplied to the government.

THE CLERK: Group of papers marked defense exhibit HH for identification.

(So marked for identification.)

MR. TAIKEFF: And this group of checks, your

1 N. Moss-direct

2 Q The one that was owned, where was it used?

7 3 A Well, that was used --

4 Q Where, not for.

5 A It was used from, I would say Canada through
6 Florida. It was used for by the men who made the installations --

7 MR. LEVIN-EPSTEIN: Objection, unresponsive to
8 the question.

9 THE COURT: Where is the question, Canada to
10 Florida?

11 THE WITNESS: Yes.

12 Q Was it garaged in Brooklyn?

13 A It was only in Brooklyn for about, oh, three or
14 four months, something like that --

15 MR. LEVIN-EPSTEIN: Objection, unresponsive to
16 the question. I ask it be stricken.

17 THE COURT: Strike it out. Was it garaged in
18 Brooklyn, yes, for three or four months. What three
19 or four months?

20 THE WITNESS: It was not garaged as such.

21 Q Was it normally kept in Brooklyn?

22 A Yes -- well, it was kept in Brooklyn, not
23 normally. It was kept in Brooklyn for about three or four
24 months before adjudication. At that time, we were finished
25 with it.

H. Moss-direct

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Q Was it a vehicle that was kept in Brooklyn, went out to these places?

A Normally, it was kept at these places and driven from possibly a job in Norfolk up to Boston, then to Canada or wherever.

Q Mr. Siefer has testified that he was that vehicle at your mother's house on Ocean Avenue and Brooklyn. Was that vehicle ever at your mother's house?

A Yes.

Q Who put it there?

A Well, may I give an explanation of that?

THE COURT: The question is who?

THE WITNESS: I believe I told someone --

MR. LEVIN-EPSTEIN: Objection.

THE COURT: Go ahead --

MR. LEVIN-EPSTEIN: Objection.

THE COURT: Too late, go ahead.

A I believe --

MR. LEVIN-EPSTEIN: Objection, once again.

THE COURT: Overruled.

Q You may give us your answer.

A I believe I told someone to move it to my mother's house which is not occupied at that time on Ocean Avenue.

Q As far as you know, when was the last time that

N. Moss-direct

that vehicle was driven?

A Possibly -- possibly about four months before the adjudication.

Q Has it ben driven since the time of the adjudication?

A No.

Q Do you know what the status or location would be of the vehicle now?

A May I explain it --

THE COURT: No, the question is do you know where it is now?

Q Or do you know its status or where it is?

THE COURT: That is two questions. Do you know where it is?

THE WITNESS: I believe --

MR. LEVIN-EPSTEIN: Objection, unless he knows.

THE COURT: Strike out unless you know where it is. Do you know where it is?

THE WITNESS: I don't remember the exact address, your Honor.

THE COURT: -- I -- no, don't answer furhter.

(Continued next page)

N. Moss-direct

BY MR. TAIKEFF:

Q Can you tell us what kind of a place it is at?

A It's at a gas station.

Q How did it get to that gas station, if you know?

A It was towed there.

Q And from what place was it towed to the gas station?

A From the Ocean Avenue house.

Q As far as you know, did George Moss have anything to do --

MR. LEVIN-EPSTEIN: Objection. Leading.

THE COURT: Yes. Sustained.

Q What if anything did George Moss have to do with bringing that vehicle to your mother's house?

MR. LEVIN-EPSTEIN: Objection. Leading.

THE COURT: I will allow it.

A Shall I answer, your Honor?

THE COURT: Yes.

A Nothing.

Q What if anything did George Moss have to do with having that vehicle towed to the garage or gasoline station?

A Nothing.

MR. TAIKEFF: May I have one moment, if your

10 1
2 G E O R G E R A O , called as a witness, having been first
3 duly sworn by the Clerk of the Court, testifies as follows:

4 THE CLERK: Full name and spell it for the
5 record.

6 THE WITNESS: George R-A-O.

7 MR. TAIKEFF: Might I inquire, your Honor?

8 THE COURT: Yes.

9 DIRECT EXAMINATION

10 BY MR. TAIKEFF:

11 Q Mr. Rao, where do you now work?

12 A American Identification.

13 Q Who's the boss?

14 A Mr. Moss.

15 Q Which Mr. Moss?

16 A That man (Indicating), George Moss.

17 MR. TAIKEFF: May the record reflect the wit-
18 ness has pointed at the defendant.

19 Q For how long have you worked for George Moss?

20 A Well, about 45 years.

21 Q Did you work for him personally for 45 years?

22 A I worked for his father, too.

23 Q What kind of business?

24 A Name plates, tags, card holders, things like
25 that.

Rao-direct

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2 Q Did you work for the Stafford Manufacturing
3 Company?

4 A Yes.

5 Q When did you finish on that job?

6 A Well, in August, '72, 1972.

7 Q When you finished on that day, did you have any
8 money coming to you?

9 A Yes.

10 Q Did you get paid?

11 A Yes, after they closed up. He called me up --

12 Q Who is he?

13 A George Moss, called me up, said to me, "I got
14 some money for you, George." I went down there to Second
15 Avenue at 58th Street and he give it to me, a little bit at
16 a time, the next following week, I went again, until he paid
17 me off completely.

18 Q Paid off completely?

19 A Yes, sir.

20 MR. TAIKEFF: Your witness.

21 MR. LEVIN-EPSTEIN: I have no questions.

22 MR. TAIKEFF: You may step down.

23 (Witness excused.)

24 MR. TAIKEFF: Might I advise the jury of the
25 stipulation the Government and I have reached?

THE COURT: Yes.

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MP. TAIKEFF: The Government and I have reached the following informal stipulation which is as binding as a formal stipulation; that in lieu of calling additional employees, specifically John O'Keefe, Florence Wallach, Raymond Gorecki. Apanepinto, W. Serrano, and A. Colon, we have agreed, me on behalf of the defendant, George Moss, and Mr. Levin-Epstein on behalf of the Government, that if these people were called they would give testimony of a similar nature on the subject of the wages and the payment after the bankruptcy as you heard, generally, from Pearl Cornish, Louise Carter, Mario Defina and the last witness, George Rao.

MR. LEVIN-EPSTEIN: So stipulated.

THE COURT: Do you have any objection to that?

MR. SHERMAN: No, I have no objection.

(Continued on next page.)

TRANSCRIPT DATED
DECEMBER 20, 1976.

reconsider my ruling.

MR. TAIKEFF: I believe on Thursday the Government made reference to 11, U.S.C. Section 25(A) 10 --

MR. LEVIN-EPSTEIN: As amended.

MR. TAIKEFF: Yes, and thereafter I looked at that section and it seems to me that the Government having been aware of the existence of that section made improper use of the defendant's testimony in the course of the bankruptcy proceedings before the referee.

That section provides that no testimony given before the referee may be used against such a person in any criminal proceeding.

MR. LEVIN-EPSTEIN: The Court will recall of course that I was the one who objected as Mr. Taikeff got into certain testimony that Mr. Moss gave before the Bankruptcy Court and I suggested the sidebar and the Court suggested Mr. Taikeff be very careful where he goes with the testimony in view that there might be a waiver of the Fifth Amendment.

On December 15, 1976, I made a specific reference to Title 1150 amendment privately and Mr. Taikeff said everything is waived that's under and the Court said of course you waive everything --

1 MR. TAIKEFF: That was an entirely different
2 discussion than the one I call to your Honor's attention-

3 THE COURT: Did you not use a portion of this
4 testimony on his direct?

5 MR. TAIKEFF: My belief and recollection
6 is that I did not.

7 MR. LEVIN-EPSTEIN: I don't believe he did
8 either, but that would make no difference whatsoever
9 because in fact, it was waived.

10 I'm sure Mr. Taikeff didn't suggest that the
11 Government has an obligation to tell him what's in
12 the law.

13 MR. TAIKEFF: I didn't say that either --

14 MR. LEVIN-EPSTEIN: Then I must have been wrong.

15 MR. TAIKEFF: If the Government is aware of
16 something in the law then it should do the best to
17 comply with the law --

18 MR. LEVIN-EPSTEIN: That's why I called for a
19 sidebar.

20 MR. TAIKEFF: The Government made improper use
21 of testimony previously given.

22 THE COURT: I'll look at it.

23 MR. TAIKEFF: 1125(A) 10.

24 MR. LEVIN-EPSTEIN: I have it here right, your
25 Honor, if it please the Court -- as amended.

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(volume handed to Court)

MR. LEVIN-EPSTEIN: It speaks of obligations of the bankrupt during the course of the first meeting of the creditors and it contains a proviso clause.

(pause)

THE COURT: When they say it shall not be used in evidence -- wouldn't People against Harris be applicable?

MR. LEVIN-EPSTEIN: Most certainly. That's only one theory upon which it would be offered.

MR. TAIKEFF: Was your Honor inquiring about Harris against New York?

MR. LEVIN-EPSTEIN: Yes.

THE COURT: I said People against Harris. Mr. Levin-Epstein said Harris against the United States and I think it's all the same case.

MR. TAIKEFF: Yes, but that had to do with an expressed statement which was expressed for prophylactic reasons and did not go to the question and immunity that is conferred.

I think the decision dealing with immunities are different.

THE COURT: But Harris against New York is authority for the proposition that when the defendant

1 takes the stand he waives his protections.

2 MR. LEVIN-EPSTEIN: The Government would ask
3 the Court to consider the sequel case.

4 Page 1120 of the record your Honor, in the
5 transcript of December 14, 1976.

6 MR. TAIKEFF: May I look at it with you?

7 MR. LEVIN-EPSTEIN: Sure.

8 For context purposes if the Court will begin
9 reading at the top of the page, Line 2 and continue
10 thereafter until -- we go back into open court on
11 Line 24 of the following page.

12 (pause)

13 THE COURT: Well, what do you suggest -- that
14 I declare a mistrial?

15 MR. TAIKEFF: Yes, your HONor.

16 THE COURT: Without some authority showing
17 that Harris against New York is inapplicable I would
18 be hesitant to do so at this juncture.

19 MR. LEVIN-EPSTEIN: I might point out during
20 hours of cross-examination on this testimony there was
21 not one objection -- but not one.

22 MR. TAIKEFF: It wasn't until Mr. Levin-Epstein
23 on Thursday of last week mentioned Section 25(A)10
24 did I look at it and then realize that the Government
25 which had apparently known about that Section made

A 274

1 improper use of it.

2 MR. LEVIN-EPSTEIN: On the contrary if Mr.
3 Taikeff didn't do his homework I can't be responsible
4 for that except under the confines of Brady against
5 Maryland and I handed over everything to Mr. Taikeff
6 which was exculpatory which was nothing in this
7 case.

8 I gave Mr. Taikeff ample notice of a Title 11
9 notice on November the 14.

10 MR. TAIKEFF: That may be what Mr. Levin-Epstein
11 had in mind but he speaks of a Fifth Amendment.

12 This is conferring immunity which operates
13 differently than the Fifth Amendment -- immunity against
14 the use of testimony not prosecution.

15 THE COURT: It talks about -- shall be offered
16 in evidence against him in any criminal proceeding.

17 If they offered it in evidence against him in
18 the case that's one thing, but to use it with respect
19 to his prior testimony under oath being false which
20 is how it was used --

21 MR. LEVIN-EPSTEIN: There's a recent decision
22 in this Circuit, U.S. against Falcone which was
23 decided November 1, of 1976 -- by the way I'll point
24 out that was a week before Mr. Taikeff was retained
25 as I understand the record, Second Circuit decision.

1 If the Court will bear with me for a moment
2 I'll try to find the specific language with respect
3 to the Fifth Amendment.

4 MR. TAIKEFF: I will look on with you.

5 MR. LEVIN-EPSTEIN: Surely.

6 The Court there referred to certain bankruptcy
7 documents filed by the Government required to be filed
8 and denying the applicant's charge that the use of
9 such documents was a violation of the section to which
10 your Honor is referring --

11 THE COURT: That's pretty clear. That's the
12 Cypher case too -- oral testimony of the bankrupt
13 didn't encompass documents and records.

14 MR. LEVIN-EPSTEIN: Yes.

15 By the way, I'll point out to the Court that
16 Ms. Rosner was not only told about this section by the
17 Government but specifically requested a letter the
18 Government wrote to Mr. Schneider, counsel for the
19 trustee way back when she was still the active attorney
20 of record. There was a letter specifically laying out
21 what section this was and it was given to Ms. Rosner.

22 I assumed throughout the proceedings that Mr.
23 Taikeff had the entire file and discussed it with
24 her as he told the Court.

25 MR. TAIKEFF: Do you have a copy of the letter

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1 to mark it for identification?

2 MR. LEVIN-EPSTEIN: Yes. You have a copy of
3 that letter to mark in evidence.

4 I assume that you have that letter. You've
5 made reference to it on prior occasions.

6 MR. TAIKEFF: Are you talking about the July 6
7 letter?

8 MR. LEVIN-EPSTEIN: I think so.

9 MR. TAIKEFF: That letter I do have. There's
10 no question about that.

11 MR. LEVIN-EPSTEIN: And I believe that that
12 will give us the date upon which the defense in this
13 case was first notified -- even though we have no
14 obligation to do so --

15 MR. TAIKEFF: I quickly reviewed the letter of
16 July 6, 1976 and I find no reference at all --

17 MR. LEVIN-EPSTEIN: On January 26, 1976 a letter
18 was written to counsel for the trustee. When we had
19 our informal Rule 16 appearance meeting with Ms. Rosner
20 the letter was supplied to her and I point forward
21 that in that paragraph -- at that conference I say --
22 "At that conference you, on behalf of George Moss and
23 American Identification Products, Inc and Mr. Sherman
24 on behalf of the defendant, Arnold Rubin made certain
25 requests for discovery and particulars. The following

1 is intended to summarize the information and repre-
2 sentations made to you both at that time. According
3 to your suggestion this letter is being sent to you
4 with a carbon copy to Mr. Sherman as response to both
5 requests."

6 Perhaps Mr. Sherman has a copy.

7 "Federal Rules of Criminal Procedure, paragraph
8 2, enclosed please find a photostatic copy of a letter
9 dated January 26, 1976 to Irving Schneider, attorney
10 for the trustee."

11 Stapled to my file copy of that your Honor
12 along with all of the other enclosures sent is a copy
13 of that letter in which specific reference is made
14 to Title 11, U.S. Code, Section 25A10 as amended,
15 dated at least as far as Mr. Taikeff is concerned the
16 beginning of July this year.

17 As far as Mr. Taikeff is concerned I'll give
18 them the benefit of the doubt and say there was no
19 notice until the beginning of November. That's a long
20 time and on that basis alone that might constitute
21 a waiver.

22 MR. TAIKEFF: All this establishes is that a
23 long time ago the Government was aware of the limi-
24 tation imposed upon them --

25 THE COURT: But you were too -- either you or

1 your predecessor were. And you are saying they are
2 trying to hide something from the defense --

3 MR. TAIKEFF: Oh, no. I want the record to be
4 clear that's not my suggestion.

5 THE COURT: But if you fail to do your job
6 properly --

7 MR. TAIKEFF: Being a human being, I'm inclined
8 from time to time to make errors and oversights.
9 That didn't speak to the question I raise -- if the
10 Government is aware of it they shouldn't make improper
11 use of it.

12 THE COURT: There's a waiver w-en you don't
13 object.

14 MR. TAIKEFF: But I'm objecting now. I didn't
15 waive it by oversight.

16 MR. LEVIN-EPSTEIN: That's why I brought it to
17 your attention specifically.

18 THE COURT: If you sit on your hands during
19 cross-examination and don't waive it --

20 MR. TAIKEFF: Does the Government concede --
21 if I make a representation to your Honor --

22 THE COURT: I don't think they have to concede
23 anything. If they call it to defense counsel at any
24 time which apparently they did you are charged with
25 everything they called to Ms. Rosner's attention.

1 MR. LEVIN-EPSTEIN: For purposes of this trial
2 Mr. Taikeff is Ms. Rosner. He is of counsel to
3 Ms. Rosner.

4 MR. TAIKEFF: I concede that. But I would ask
5 your Honor to read the text of the letter of January
6 26 so your Honor is aware of whether or not it was
7 stated that this is going to be used --

8 THE COURT: It didn't matter. If he called
9 to your attention that the privilege existed and
10 you don't exercise it then you waive it. It didn't
11 make a difference.

12 MR. TAIKEFF: He refers to someone else men-
13 tioning it at an earlier time. Could he read into
14 the record that paragraph so the record is clear?
15 At this point we don't have it in the record, your
16 Honor.

17 MR. LEVIN-EPSTEIN: I'll be happy to.

18 I also have letters indicating that Ms. Rosner
19 as late as January 26, 1976 knew full well that her
20 clients had the abilities to waive such immunity.
21 She speaks of grants of immunity and waivers to tes-
22 tify under the Fifth Amendment --

23 MR. TAIKEFF: I don't know that's --

24 MR. LEVIN-EPSTEIN: It goes to the knowledge of
25 waiver and immunity. My goodness, people going before

1 the Grand Jury waive something every single day.

2 If you wish, I'll read the entire letter
3 into the record.

4 THE COURT: I think you'd better mark it.

5 MR. LEVIN-EPSTEIN: Do you wish the original
6 cpy or the copy sent to Ms. Rosner marked?

7 MR. TAIKEFF: Makes no difference to me. I
8 do not contest counsel's statement that he sent the
9 original letter.

10 MR. LEVIN-EPSTEIN: Very well.

11 THE COURT: This section is not new.

12 MR. LEVIN-EPSTEIN: It existed for many, many
13 years. It's the backbone of Section 25.

14 THE COURT: There's a 1920 case on this
15 cross-examination question here.

16 MR. LEVIN-EPSTEIN: How do you wish it marked?

17 THE COURT: Your exhibit.

18 MR. LEVIN-EPSTEIN: Government Exhibit 90 for
19 identification.

20 THE CLERK: So marked)

21 (SO MARKED)

22 MR. LEVIN-EPSTEIN: Do you wish to take a look
23 at it --

24 MR. TAIKEFF: May I look at the first paragraph
25 before it's handed up, your Honor?

1 THE COURT: Surely.

2 (pause)

3 MR. LEVIN-EPSTEIN: I think as a matter of
4 completeness the record should reflect that Mr. Taikeff
5 thanked me for bringing to his attention at sidebar
6 and thanked the Government for its "over-concern",
7 I think he characterized it.

8 MR. TAIKEFF: Yes, and I believe it was
9 concern for the Fifth Amendment rights . I said
10 to your Honor that I don't understand what they are
11 talking about. Since my client voluntarily took the
12 stand I don't know why there's a question as to his
13 Fifth Amendment rights and at that point it would have
14 been proper for Mr. Levin-Epstein to say I wasn't
15 talking about that --

16 THE COURT: The Government has no obligation to
17 protect your client's interest which you seem to
18 think they do but they don't.

19 MR. TAIKEFF: No, I don't. That's why I thanked
20 them. But I don't think they should speak in --

21 THE COURT: Look, the whole question is irrele-
22 vant really.

23 MR. TAIKEFF: I have read the first paragraph,
24 your Honor, thank you.

25 (document handed to the Court)

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(pause)

1
2 THE COURT: I think in light of that I have
3 to say that you were charged with full knowledge of
4 what the situation was.

5 MR. LEVIN-EPSTEIN: I'll maintain this outside
6 for the purpose of the trial -- outside my file I
7 mean in case you need it again.

8 THE COURT: So, at this juncture my ruling would
9 be that you waived it.

10 MR. TAIKEFF: Thank you, your Honor.

11 I have no further matters for the Court.

12 THE COURT: That is with reference to Government
13 Exhibit 90.

14 MR. LEVIN-EPSTEIN: That's only for identifi-
15 cation of course.

16 THE COURT: Yes.

17 Let's get the jury in here.

18 Are we still on your case, Mr. Taikeff -- we
19 are still on your case?

20 MR. TAIKEFF: Yes, your Honor. I have a
21 witness on the stand.

22 MR. SHERMAN: I have one brief thing. I'm sorry.
23 It's an additional short request to charge.

24 THE COURT: You don't have to make a big deal
25 out of that.

1 MR. TAIKEFF: I thought --

2 MR. LEVIN-EPSTEIN: I believe I said one day.

3 THE COURT: regardless --

4 MR. TAIKEFF: Your Honor, I'm not prepared to
5 sum up. I have a sixteen or seventeen-hundred page
6 record to go through --

7 THE COURT: You won't sum up until this
8 afternoon.

9 MR. TAIKEFF: I relied on what the Government
10 said.

11 THE COURT: He said, as I recall, depending on
12 what happened on Monday, we might have a rebuttal case.

13 I was fully cognizant of that because I was
14 preparing my charge, which I have prepared.

15 You must go ahead with summation.

16 MR. TAIKEFF: I don't even have any notes here
17 that I have been working on.

18 THE COURT: Get them during the luncheon hour.

19 Now, do you have any further motions?

20 MR. TAIKEFF: I renew the previously made
21 motions and with respect to count one, in going
22 through the transcript I find there was testimony
23 concerning when the first contact was made with the
24 people from S and W. in December -- although I am
25 willing to concede that the Court Reporter probably made

A 284

3 1 a mistake and it should have probably said September --

2 MR. LEVIN-EPSTEIN: I recall Mr. Steiner's
3 testimony being that it was the beginning of August
4 that he was first approached by Mr. Rubin --

5 MR. SHERMAN: He didn't say that.

6 MR. LEVIN-EPSTEIN: He didn't?

7 MR. SHERMAN: No.

8 MR. TAIKEFF: I am willing to concede that it
9 was September, and that would put it after August.

10 THE COURT: Oh, no.

11 Mr. Seifer said -- whose testimony was it --
12 somebody gave testimony that it was some time before
13 the truck arrived and we know the truck arrived on
14 August 11th or 12th.

15 MR. LEVIN-EPSTEIN: Your Honor, I'm sorry. I
16 apologize. I was talking to Mr. Sherman and I must
17 have missed the question.

18 THE COURT: He is trying to dismiss count one
19 by showing there was no attempt to put the truck down
20 there before August.

21 I am going to deny that motion.

22 MR. TAIKEFF: Otherwise, I renew the motions
23 I made at the end of the government's evidence.

24 MR. SHERMAN: Your Honor, we will renew our
25 motion made at the close of the Government's case

Summation-Levin-Epstein

1
2 charm one hangs on a bracelet to recall the sentimental
3 value of dad's company. Nonsense.

4 This truck was worth money on the rolling hoof.
5 He didn't have to buy it. He didn't have to spend
6 money to get another one and he proved it himself when
7 he said to you that he lied under oath and perjured
8 himself. He said to you, in fact ladies and gentlemen,
9 I am a liar. But, I can explain it.

10 Ladies and gentlemen, give me a chance, he
11 says. Mr. Levin-Epstein, you never let me explain it.
12 You never let me explain it. Ask me a question so I
13 can explain it.

14 I said, if Mr. Taikeff thinks you should explain
15 it, let him ask the question and the question, did
16 you hear it, ladies and gentlemen -- when was Mr. Moss
17 ever asked on redirect examination, okay, Mr. Moss,
18 why don't you tell us about the perjury? Why don't
19 you tell us about the forgery, tell us the explanation.
20 Did you hear one question in explanation, in answer,
21 in explanation? Not a one. Whispered.

22 I submit to you, that is because it would have
23 been redundant, cumulative and a repeat of exactly what
24 happened when he testified on cross-examination because
25 the only true and real explanation is the one you heard;

1 that he is a liar, a forgerer and a thief and he knew
2 full well that that was the explanation and that's
3 why you never heard anything else about it.

4 We'll scoop it under the rug, scoop it under
5 the carpet and we will hope that this jury won't
6 remember that I am a liar.

7 We will hope that this jury won't remember that
8 I am a Yale law school graduate, an attorney practicing
9 law and I do not know what forgery is. Insults to you,
10 insults, I say.

11 He sits there and says to you, I don't know what
12 I was doing. Some would call it perjury. That's a
13 pretty harsh word, Mr. Levin-Epstein.

14 Yes, it is, I said, do you recall? What would
15 you call it if not perjury?

16 Well, I didn't tell the truth.

17 Under oath, Mr. Moss?

18 Well, some would say that.

19 Who would say that? You know who said that?

20 He said it.

21 It's astounding if you think about it for a
22 moment. The argument might even be made to you that
23 my client -- I'm paraphrasing what Mr. Taikeff might
24 say to you -- my client told you from this witness chair,
25

that how it suddenly became available?

"I'll explain it. Mr. Levin-Epstein, you are a professional badgerer. Let me explain it."

Okay, on redirect examination, "Explain."

Not a word -- not a word.

"You know this man, John Maxwell, Mr. Moss?

"I can explain that. I signed all those names.

"Do you know how it came to be that you lied to the Bankruptcy Court as to John Maxwell?

"I can explain that. I perjured myself.

"Did they teach you about perjury at Yale Law School?

"No.

"Did they teach you about forgery at the Yale Law School, Mr. Moss?

"No.

"Where did you learn to sign somebody else's name on a document not your own?

"I picked that up on my own.

"Liar -- liar.

"The truck is supposed to be junk, \$3,500 value on the insurance policy.

"Nat Moss told me to put down 3,500 and I put down 3,500."

1
2 Nat Moss says for somebody to jump off the
3 Brooklyn Bridge, and they jump? Because someone
4 told him to.

5 My brother George, whom I love, is carrying on
6 Dad's business, told me to lie, who I owe great
7 loyalty to, a defendant charged with a felony, in
8 whose business I have a financial interest. So my
9 brother forged, whom I love, so I'll perjure myself,
10 too.

11 Liars -- liars.

12 Even if he is not lying, what does he say?
13 That that man, pointing at George Moss, told him to
14 do it. He was in charge, he was the boss, he did it.
15 He is given up by his own brother. What better
16 testimony if I had called Nat Moss as my own witness?

17 Who decides what should be bought and what
18 should be sold? The Bankruptcy Court? Who decides
19 what should be bought and what should be sold? The
20 Mosses, that Moss, George.

21 Well, the argument might be made, "I didn't
22 know. I have never practiced law a day in my life.
23 I didn't know anything about the law. I am a mere
24 humble businessman, trying to eke out a living in
25 Dad's business. I forgot about the bankruptcy that

1 I went through in 1949, when I was the Vice
2 President of that bankrupt corporation, when I was
3 an officer in that corporation, when I was told by
4 the Court, "You have to tell us about all your
5 assets."

6 Well, that slipped my mind. I also forgot
7 the truck, the car, the forklift truck, and I forgot
8 the money was owned by the creditors, by the
9 Trustees, and I forgot to tell the truth in the
10 Bankruptcy Court, and I forgot the question -- what
11 was the question?

12 How many times did I have to have the
13 Reporter read back a question that called for a
14 yes or no answer? After he made, what he accused
15 me of doing, a long self-serving speech about what
16 a wonderful human being he is. I am surprised his
17 arms are not dislocated from patting himself on the
18 back.

19 "I'm a wonderful person. I was doing what I
20 thought was morally right. Look at all the
21 employees who I owed loyalty to."

22 He puts that old man on the witness stand,
23 forty years in the profession, who worked for his
24 father, who could barely reach the witness stand.
25

1
2 He says, "George helped me. He gave me the money
3 which I needed."

4 I submit that that was the most crude, the
5 most basic, the most fundamental and sickening play
6 for your sympathy that you could possibly imagine
7 from this guilty and desperate man. That's the
8 defense attempt to get your sympathy, to feel sorry
9 because he took care of his people, because he took
10 care of those employees that were loyal to him.
11 Nonsense. He said to you himself, "I would do
12 anything to keep that business going -- it was my
13 father's business -- out of loyalty to my deceased
14 father. It was my only primary source of income.
15 I have to keep it going."

16 So I submit to you, ladies and gentlemen,
17 instead of being the benevolent soul he paints to
18 you, what he did was in effect bribe -- yes, bribe
19 his employees to stay on at the coolie wages that he
20 was paying them, \$80 a week, \$100 a week after
21 thirteen years. That is gross, not net. So he
22 gave them this money and he said to them in effect,
23 you are the people that know my business. You are the
24 people that know how to manufacture these things.
25 You are the only stupid people that will work for

1 next to nothing, so rather than make you wait for
2 the money that you are entitled to, for they were
3 preferred creditors that would have gotten their
4 money anyway, I will pay you under the table so you
5 will come back to work for me right away, so there
6 will be no interruption in money going into my
7 pocket."

8
9 Sympathy? Distress, I submit to you.

10 The only thing that is missing is the onion
11 in the handkerchief so the tears would flow copiously.

12 Nonsense. Don't be misled. Don't be
13 bamboozled and flim-flammed by a charlatan, by a
14 liar.

15 "I can explain," says Mr. Moss. Here are
16 the affidavits. I can explain them.

17 "Mr. Moss, is there some particular reason
18 why those things are backdated for a little more
19 than four months from the date of adjudication?"

20 Why four months, you may ask yourselves?

21 Well, I submit to you that the Court might
22 instruct you that a transfer of assets by a person
23 or a person responsible for a corporation, within
24 four months preceding bankruptcy -- within the four
25 months before adjudication -- that that transfer in

Levin-Epstein - summation

What does he say? I didn't mean to do it criminally. I did it, but I didn't mean to do it criminally.

That's fine. Okay. How does that jibe with the rest of the defenses in this case?

Remember what I mentioned to you a little bit before lunch; that the worst thing is a case with no defense at all. That leaves two alternative defenses.

He says, as to count 7, the Benchmaster presses, they were sold at the sale. I didn't hide them. It didn't happen.

Count 1 -- well, that's a bad example because there is no defense to count 1 that I heard.

Count 7, the bench presses were sold, and that's the defense to that one.

The fork lift truck, I think, is count 6. I don't know anything about that. That's the defense.

But, with this one, the defense is, I did everything you said but not with criminal intent.

Are you going to believe him in light of all the circumstances and in light of the fact that he is a liar, admitted and conceded?

It's the easiest thing for you -- not you -- but him -- to say what he was thinking. Can I say to

TRANSCRIPT DATED
DECEMBER 21, 1976.

1 you give me a copy of that letter," which I sent to
2 the attorney of the Trustee, which she knew about.

3 MR. TAIKEFF: I have no personal knowledge of
4 that, and if it is appropriate to get an affidavit from
5 her and to ask your Honor for an evidentiary hearing
6 we will do that, but I can assure your Honor, and I
7 state so that the record will reflect my assertions,
8 that although I did get a copy of Mr. Levin-Epstein's
9 letter of July 6th, there was no document attached to
10 it.

11 MR. LEVIN-EPSTEIN: Which is not to say it
12 wasn't by Mrs. Rosner.

13 MR. TAIKEFF: I have absolutely no knowledge on
14 that subject.

15 MR. LEVIN-EPSTEIN: The reason I say that is
16 because -- and the reason I'm even doubly sure
17 Mrs. Rosner did receive a copy, although when the
18 transfer of files was made to you, you may not have
19 received it because in my conversation with Mr. Sherman
20 I know he did receive it, and it's very unlikely one
21 would be misplaced.

22 MR. TAIKEFF: I don't think there's a question
23 about whether she got it. I think the question is
24 what effect it has on my -- and I think it's mostly a
25 legal question -- I don't think there are any factual

LAW OFFICES
IRVING SCHNEIDER

A 295

THIRTY VESLEY STREET
NEW YORK, N.Y. 10007
TELEPHONE RECTOR 2-4818
4319
8070
AREA CODE 212

August 23, 1972

William J. Henry, Esq.
40 Exchange Place
New York, N.Y.

Re: Stafford Manufacturing Co. Inc.

Dear Mr. Henry:

In a summary of the assets and liabilities dated August 6, 1970, signed by George Moss, as president of the bank, he stated that the assets of the firm were located at its main office and factory at 145 58th Street, Brooklyn, N.Y. and in the following additional locations:

131 North 11th St., Philadelphia, Penna.
2513 North Charles St., Baltimore, Md.
139 58 Street, Brooklyn, N.Y.
24357 Street, Brooklyn, N.Y.
153-171 58 Street, Brooklyn, N.Y.
1119 53rd St., Brooklyn, N. Y.
5412 12th Avenue, Brooklyn, N. Y.
1140 53rd Street, Brooklyn, N. Y.
1145 52nd St., Brooklyn, N. Y.
1119 52nd St., Brooklyn, N. Y.
966 51st St., Brooklyn, N. Y.

Will you please obtain for us and furnish same to Martin Fein & Co., the Court appointed auctioneer, the names of the firms at these addresses who have possession of any of these assets, together with any other or additional locations which may now hold any of the bankrupt's assets.

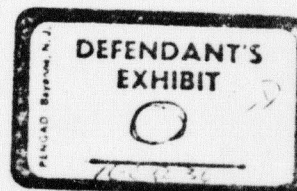
Yours truly,

IS:nbl

IRVING SCHNEIDER

CC: Martin Fein & Co.
7 E. 33 Street, N.Y.C.

Max M. Goldhaber
44 Court Street, Brooklyn, N.Y.



A 296

United States of America vs.

United States District Court

EASTERN DISTRICT OF NEW YORK

DEFENDANT

GEORGE MOSS

DOCKET NO.

76 CR 369

AMENDED

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government
the defendant appeared in person on this date

MONTH DAY YEAR
FEBRUARY 25th, 1977

COUNSEL

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to
have counsel appointed by the court and the defendant thereupon waived his right to counsel.

☒ WITH COUNSEL

Elliot Taikeff, Esq.
(Name of counsel)

S. DISTRICT COURT E.D. N.Y.

PLEA

☐ GUILTY, and the court being satisfied that
there is a factual basis for the plea,

☐ NOLO CONTENDERE, TIME A.M. NOT GUILTY
P.M.

FINDING &
JUDGMENT

There being a finding/verdict of

☐ NOT GUILTY. Defendant is discharged☒ GUILTY. in counts 1 through 4, 6 through 12, and

Defendant has been convicted as charged of the offense(s) of violating T-18, U.S.C., Section 152
and 2 in that from on or about and between August 10th, 1972 and
October 10th, 1972, both dates being approximate and inclusive the
defendant with others knowingly and fraudulently, with intent to defraud
the Bankruptcy Law, did conceal property belonging to another and
intentionally and fraudulently conceal from another, the Trustee, and
from creditors in the proceeding, property belonging to the estate of
the bankrupt.

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary
was shown, appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant
hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of

SENTENCE
OR
PROBATION
ORDER

IT IS ADJUDGED on counts one (1) through four (4), six (6)
through twelve (12), and fourteen (14), under Title 18, United
States Code, Section 3651, that the defendant is hereby committed
to the custody of the Attorney General or his authorized representative
for imprisonment for a term of two (2) years; and on condition that
the defendant be confined in a jail type or treatment institution
for a period of six (6) months, the execution of the remainder of the
sentence of imprisonment is hereby suspended and the defendant is
placed on probation for a period of one and a half (1½) years to
commence upon his release from confinement. Such sentences on
each count to run concurrently; and the defendant shall pay a to
the United States of One Thousand Dollars (\$1,000.00) on each
count for a total fine of Twelve Thousand Dollars (\$12,000.00).
Execution of sentence is stayed for ten (10) days pending filing
of Notice of Appeal. If such Notice be filed execution of sentence
is stayed pending appeal.

SPECIAL
CONDITIONS
OF
PROBATIONADDITIONAL
CONDITIONS
OF
PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on
reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, at
any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke
probation for a violation occurring during the probation period.

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk do

A 297

United States of America vs.

United States District Court for

M.F. ID

M.F. ID

EASTERN DISTRICT OF NEW YORK

DEFENDANT

AMERICAN

IDENTIFICATION PRODUCTS, INC.

DOCKET NO. 76 CR 369

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government
the defendant appeared in person on this date

MONTH 2 DAY 25 YEAR 77

COUNSEL

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL

(Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that
there is a factual basis for the plea,☐ NOLO CONTENDERE, ☐ NOT GUILTY

★ FEB 28 1977 ★

There being a finding/verdict of

☐ NOT GUILTY. Defendant is discharged☒ GUILTY. on count thirteen (13).FINDING &
JUDGMENT

Defendant has been convicted as charged of the offense(s) of violating T-18, U.S.C., Section 152 in that on or about the twenty-ninth day of December 1972, the defendant did knowingly fraudulently and with intent to defeat the Bankruptcy Law receive a material amount of property from a bankrupt, namely the Stafford Manufacturing Company, Incorporated, after the filing of a bankruptcy proceeding.

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of _____.

SENTENCE
OR
PROBATION
ORDER

IT IS ADJUDGED on count 13 that defendant pay a fine to the United States in the sum of \$5,000.00. Execution of sentence is stayed for 10 days pending filing of Notice of Appeal. If such notice be filed execution of sentence is stayed pending appeal.

SPECIAL
CONDITIONS
OF
PROBATIONADDITIONAL
CONDITIONS
OF
PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

The court orders commitment to the custody of the Attorney General and recommends,

GEORGE ROSS and AMERICAN IDENTIFICATION
PRODUCTS,

Defendants-Appellants,

-against-

UNITED STATES OF AMERICA,

Plaintiff-Appellee.

Docket Number

76-CR-369

HON. THOMAS C. PLATT

(District Court Judge)

NOTICE OF APPEAL

Notice is hereby given that GEORGE ROSS and AMERICAN IDENTIFI-
CATION PRODUCTS appeals to
 the United States Court of Appeals for the Second Circuit from the ☒ Judgment ☐ order ☐ other
 February 25, 1977
 (specify) _____ entered in this action on _____ .

(Date)

GRAMM HUGHES

Date March 7, 1977

Address

40 (Counsel for Appellant)
 Washington Square South
 New York, New York 10012
 (212) 398-2565

To: Clerk
 United States District Court
 Eastern District of New York
 225 Cadman Plaza East
 New York, New York 11201

(212) 593-2565

Phone Number

ADD ADDITIONAL PAGE IF NECESSARY

(TO BE COMPLETED BY ATTORNEY)

TRANSCRIPT INFORMATION - FORM B

▶ QUESTIONNAIRE

- ☐ I am ordering a transcript
☒ I am not ordering a transcript
 Reason:
☒ Daily copy is available
☐ U.S. Attorney has placed order
☐ Other. Attach explanation

▶ TRANSCRIPT ORDER

- Prepare transcript of
☐ Pre-trial proceedings
☐ Trial
☐ Sentence
☐ Post-trial proceedings

▶ DESCRIPTION OF PROCEEDINGS
 FOR WHICH TRANSCRIPT IS
 REQUIRED (INCLUDE DATE).

The ATTORNEY certifies that he will make satisfactory arrangements with the court reporter for payment of the cost of the transcript. (FRAP 10(b)) ▶ Method of payment ☐ Funds ☐ CJA Form 21

ATTORNEY'S signature *William Hughes*

DATE March 7, 1977

▶ COURT REPORTER ACKNOWLEDGEMENT

To be completed by Court Reporter and
 forwarded to Court of Appeals.

Date order received

Estimated completion date

Estimated number
 of pages.

Date _____

Signature _____

(Court Reporter)

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